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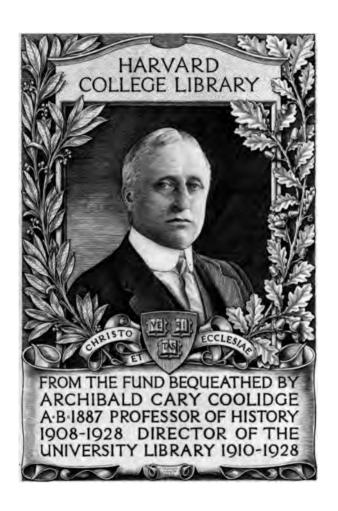
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## THE

# IRISH QUERIST:

A SERIES OF QUESTIONS PROPOSED FOR THE CONSIDERATION OF ALL WHO DESIRE TO SOLVE THE PROBLEM OF

IRELAND'S SOCIAL CONDITION.

BY

## ISAAC BUTT,

AUTHOR OF "LAND TENURE IN IRELAND; A PLEA FOR THE CELTIC RACE:"

AND

"FIXITY OF TENURE, HEADS OF A SUGGESTED LEGISLATIVE ENACTMENT."

"Prudens interrogatio dimidium est scientia."

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It is needless to say that this attempt to throw an argument into the form of questions has been suggested by *The Querist* of the illustrious Bishop Berkeley.

I know how perilous it is to tread in the steps of so great a master. I have not the presumption to suppose that I could, at ever so humble a distance, imitate the qualities which have immortalized The Querist of the Bishop. I may hope, however, to make some use of the weapon of which he has taught us the power. I have succeeded in all I attempt, if, in the following questions, I have been able, in a short and pithy form, to suggest any reflections worthy of being followed out.



# THE IRISH QUERIST:

## A SERIES OF QUESTIONS PROPOSED FOR THE CONSIDERATION OF ALL WHO DESIRE TO SOLVE THE PROBLEM OF

## IRELAND'S SOCIAL CONDITION.

- 1—Whether any rational man in Ireland thinks it desirable that the peculiarities of our social condition which result from, or are connected with, the tenure and occupation of land should continue permanently unchanged?
- 2—Whether want of security of his tenure for the tenant be not among the most objectionable of those peculiarities?
- 3—Whether this evil be increased or diminished within the last fifty years?
- 4—What proportion of the occupiers of the soil are yearly tenants, and no more? and whether this proportion be greater or less than it was when the battle of Waterloo was fought?
- 5—What would be the average number of our county constituencies if the electoral laws which prevailed in 1850 were still in force, and a lease, or other certain tenure, were required as the qualification for the franchise?
- 6—How many tenant farmers now exist in Ireland who have a freehold interest in their farm of the annual value of forty shillings?
- 7—Whether it be advantageous that all the occupiers of the soil should have no other hold upon their farms than the goodwill and pleasure of the landlord?

- 8—Whether it be not as clear as any axiom of Euclid that occupiers, who hold their farms subject to the constant fear of arbitrary eviction or the demand for an extortionate rent, cannot cultivate those farms with advantage either to themselves or the country?
- 9—Whether, if a change in this state of things be desirable there is any rational prospect of its being brought about except by legislative interference?
- 10—Whether it would be an intolerable grievance to the landlords of Ireland if a legislative enactment found them tenants who would punctually pay, as rent, the full value of their holdings, and who would be constantly improving their farms, even though it were a condition that such tenants should hold by a lease for a good term of years?
- 11—Whether a Tipperary landlord would be utterly ruined if his estate could be transformed into an estate of equal rental in the County Down; an estate on which he would have a thriving, industrious, and contented tenantry—punctually paying their rents and living at peace with their landlord, even though he were compelled to recognize the Ulster custom of tenant right?
- 12.—Whether it would utterly destroy the comfort and happiness of such a landlord and his family if they felt perfectly sure that not a tenant on the estate would ever dream of shooting his landlord from behind a hedge?
- 13—Whether it would amount to a confiscation of a landlord's property to increase the selling value of his estate from twenty years' to thirty years' purchase?
- 14—Whether any good landlord ever desires capriciously to evict a tenant, or exact from him an exorbitant rent? and whether it be desirable that any bad landlord should have the power of doing so?
- 15—Whether it be not essential, or at least very conducive, to the prosperity of a community that every producer should be remunerated for his industry in such manner as to stimulate him to produce the utmost he reasonably can?
- 16—Whether the Irish tenant farmers be not the producers of the fund from which all classes of Irishmen must draw their support?

- 17—Whether a community that have nothing to live upon but their agricultural produce are made richer by laws which take away from the cultivator of the soil every inducement to increase that produce?
- 18—Whether there be not some ground for apprehending that this may be the effect of the system of land tenure which places every occupier in the position of a tenant at will?
- 19—Whether a man who has no security that he will enjoy the fruits of his industry is as likely to be industrious as one who knows that he is sure to reap the fruits of his toil?
- 20—Whether it be not a wise saying which teaches us not to muzzle the ox that treadeth out the corn? and whether an Irish tenant farmer be not as well entitled to a share in the fruits of his industry as a Jewish ox?
- 21—Whether if matters could be so ordered in the bee-hive that the working bees should not get their fair share of the honey, the Queen and the drones would get as much as they do now?
- 22—Whether, if the belly starved the members, the fable of Menenius Agrippa would have had any point?
- 23—Whether want of self-reliance be not generally imputed as a fault to the Irish people? and whether, in every speech made by a Lord Lieutenant for the last twenty years, his Excellency did not inculcate on us the virtues of self-reliance and industry?
- 24—Whether the true way to make people self-reliant be not to give them the opportunity of doing something for themselves?
- 25—Whether the best way to make a people industrious be not to assure them the rewards of industry?
- 26—Whether the Egyptian authorities did not lecture the Israelites on their idleness when they failed in making bricks without straw?
- 27—Which on the whole were the more unreasonable, to expect a Hebrew to make bricks without straw, or to expect that an Irishman will make improvements on his farm without any security that when he makes them he will not be turned out?
- 28—Whether there be any country calling itself civilized, on the face of the globe, except Ireland, in which the occupiers of the

soil are not protected against arbitrary evictions, either by the circumstances of the country, by custom, or by law?

- 29—Whether the practical condition of land tenure in Ireland be not the very worst in Europe?
- 30—Whether the people of every country have not a right to live upon its soil? and whether, in stocking a country with inhabitants, bullocks and sheep ought to have the preference over men?
- 31—Whether there be any peculiar sacredness attached to the possession of Irish landed property which makes its owner independent in its management of the laws of God and man? and whether it can be justly deemed savouring of sacrilege, blasphemy, or treason, to propose any control over the exercise of his proprietary rights?
- 32—Whether there be any just limit to the principle that a man may do what he likes with his own? and if so, whether this limit may not have some application to property in Irish land?
- 33—Whether an Irish landlord may not justly be said to devour a widow's house when he evicts the widow, and pulls down her house, in order that he may fatten a bullock on its site?
- 34—Whether there be any country in Christendom, except Ireland, in which the right of the people, who are born upon the soil, to live upon it has not been long since distinctly recognized?
- 35—Whether it can reasonably be concluded that an Irish peasant was created for any other purpose than that of making the rent for his landlord? and, if so, whether in any legislation affecting him any other object of his existence ought to be taken into account?
- 36—Whether an act preventing a landlord from taking an exorbitant rent would be a greater interference with the rights of property than a law punishing a money-lender for taking an exorbitant interest for a loan?
- 37—Whether, up to a very recent period, there were not laws in force making it highly penal to take more than a specified interest for money? and whether these laws did not meet with the approbation of all good Conservatives?
  - 38-Whether, at this moment, there are not laws in force pro-

hibiting a pawnbroker from receiving more than a certain rate of interest; and also laws prohibiting a manufacturer from paying his workmen's wages in goods.

- 39—Whether some good reasons might not be given for the belief that it is as necessary to protect an Irish peasant against an extortionate bargain for land as it is to protect him against an extortionate bargain for a pawnbroker's loan?
- 40—Whether there be not thousands of Irishmen to whom the retention of their bit of land is an indispensable condition to their very ability to exist? and whether these Irishmen be not wholly at the mercy of the owner of that land?
- 41—Whether the Irish tenant be not generally as much in the power of the landlord as the borrower is in the power of the pawn-broker, or the workman of his employer? and whether there be not, on the whole, as much opportunity for grinding the poor in a landagent's office as in a pawnbroker's establishment or a truck shop?
- 42—Whether there be any well-founded reason for showing any greater favour to an extortionate landowner than to an extortionate pawnbroker? and whether the one character be not as possible in nature as the other?
- 43—Whether, if pawnbrokers returned the members of the Legislature they would not be permitted to charge any interest they pleased? and whether, if they were as influential as landlords, it might not probably be discovered, that any interference between them and their customers would be a violation of the rights of property, and of the laws of political economy?
- 44—Whether an Irish peasant who holds his land under the present system of land tenure may not be considered as having pledged himself, his industry, and his means of living for the payment of the rent which his landlord may choose to exact?
- 45—Whether an Irish occupier who is kept by his landlord under a perpetual notice to quit be not really in the condition of a serf, and whether England has not interfered to place the Indian ryot in a better position than such a serf?
- 46—Whether there be any reason why an Irish tenant farmer should be less worthy of consideration than a Hindoo ryot?

- 47—Whether, forty years ago, it was not conclusively proved by all Conservative authorities in Parliament, and the press, that the West Indian slaves were far more contented and independent than the Irish occupiers of the soil?
- 48—Whether the slaves were not emancipated notwithstanding the conclusiveness of this proof?
- 49—Whether, if the Irish tenant farmers had been fortunate enough to have black skins and woolly hair, and to have rented their land in the Carribbee Islands, the enlightened British public would have tolerated the serfdom in which they have been kept?
- 50—Whether it be not high time that the Irish land question should cease to be the disgrace of British legislation throughout the whole civilized world?
- 51—Whether the British Government be not held responsible by public opinion throughout Europe for the wholesale exterminations which have taken place in Ireland under the sanction of British law?
- 52—Whether it be true that in the year 1849 50,000 families in Ireland were turned, by the landlords, out of house and home? If so, how many human beings were included in these families? how many of them were aged persons or young children? and how many of them perished by the roadside or in the fields?
- 53—Whether an eminent British statesman did not say that the cruelties of the late Neapolitan Government amounted to a negation of God?
- 54—Whether this observation was founded on any peculiarity of the Neapolitan soil and climate? and whether the Irish people be not as susceptible upon such subjects as the Neapolitans?
- 55—Whether it be true that in 1860 an Irish landlord depopulated a whole district in the county of Donegal? that in one day he drove out 300 human beings—levelled their homes, and turned their lands into a sheep-walk? and whether a large body of the Queen's troops attended at the doing of this act?
- 56—Whether the Czar of all the Russias would have tolerated on the part of one of his nobles the extermination of the inhabitants of a whole district, such as appears, from parliamentary papers, to have taken place upon this occasion?

- 57—Whether his Imperial Majesty would have sent his troops and ministers of the law to aid the noble in perpetrating this act? Whether he would not probably have sent them to carry off the the noble to Siberia? and whether plausible reasons might not be urged for the opinion that the latter course would be more consonant to natural justice and more worthy of a humane and enlightened prince?
- 58—Whether the tenants on that Donegal estate might not have been better off under the despotism of Russia than they found themselves under the free constitution happily established in Ireland?
- 59—Whether, if such an eviction had taken place in England such another would ever have taken place again?
- 60—Whether there was not sound policy as well as justice in the early legislation of the English Parliament which visited with very severe punishment any English landlord who made a clearance of the population on his estate?
- 61—Whether the Queen, the country, or the Irish gentry would sustain an irreparable loss if an expost facto law were now to be passed visiting all landlords who have committed similar crimes in Ireland with the penalty of transportation for life?
- 62—Whether, if in 1849 50,000 English tenants had been evicted, the English land laws would have continued in 1850 unchanged?
- 63—Whether the landlords who evicted them would have escaped wholly unscathed?
- 64—Whether the English people are really acquainted with the oppressions that have been practised upon the Irish occupiers of the soil?
- 65—How many Englishmen have read of the evictions of Glenveigh, or "the sack of Toomavara?"
- 66—Whether as many Irish perished in the wars of Cromwell as in the evictions of the last twenty years?
- 67—Whether every nation and government be not responsible for all acts of oppression committed under the sanction of its laws?
- 68—Whether the English Foreign Office has not manifested, for many years, a most laudable anxiety to interfere for the protection

of oppressed people all over the globe? and whether this spirit would be still more praiseworthy if its application had included the Irish tenant?

69—Whether, if Ireland were an independent country, and the Irish occupiers had been treated as they have been for the last twenty years, the English ambassador at the Castle of Dublin would not constantly have received despatches containing the most admirable remonstrances, and pointing out the dangers which Irish misgovernment caused to the peace of Europe, and directing him to leave copies of the despatches with the Irish Secretary for Foreign Affairs?

70—Whether, if a Roman Cardinal had made a clearance on his estate like that which was perpetrated in the County of Donegal, and if the soldiers of the Pope had been employed in levelling a peaceful hamlet in the Roman States, the Papal Government would not have been strongly denounced in the British Parliament? and whether any English minister would have ventured to defend either the Cardinal or the Pope?

71—Whether, if, in 1849, 50,000 families had been turned out of house and home in the dominions of the ex-King of Naples very strong and just observations would not have been made in English diplomatic despatches, in speeches in the English Parliament, and in articles in the English press?

72—Whether, if Ireland were a part of the Papal dominions the condition of the people would not have been described by English statesmen in language even stronger than calling it the plague spot of Europe?

73—Whether the despatches which Earl Russell has addressed of late years to foreign governments on the oppression practised on their subjects might not, with a slight alteration, be profitably addressed to the Lord Lieutenant of Ireland, and generally to Irish landlords?

74—Whether this suggestion be not worthy of the consideration of the present Foreign Secretary, and whether these despatches can possibly be used in any way in which they will do as much good?

- 75—Whether nations as well as individuals may not fall into the mistake of asking to take the mote out of their neighbour's eye before they have cleared away the beam out of their own?
- 76—Whether it be not a misfortune that great minds overlook the matters that are close at home? and whether, since the suspension of the *Habeas Corpus* Act, a visit to our Irish prisons might not suggest reflections nearly as important and philosophic as those caused by a visit some years ago to a Neapolitan one?
- 77—Whether it be not a fact that the land of Ireland is in such a condition as to admit of its value being greatly increased by care, and industry, and expenditure, in proper cultivation and in the making of improvements? and whether if the land was so cultivated and improved the annual value of all agricultural tenements in Ireland might not be nearly doubled?
- 78—Whether such an increase in the annual value of agricultural tenements would not be a clear addition to the wealth of the country?
- 79—Whether, in a poor country like Ireland, such an addition would not be a very desirable thing to effect?
- 80—Whether any landlord would be impoverished by such increase of the national wealth, even although he only received his present rents?
- 81—Whether there be not strong reasons to expect that the tenant farmers of Ireland would in a very short time effect such improvements if they were assured that they themselves and their children would have the benefit of them?
- 82—Whether any measure which would induce them to do so would not increase the national wealth? and whether anything would be taken out of the pocket of any man?
- 83—Whether a great many persons besides the tenant farmers might not benefit by the additional wealth so created? whether the increased means of the tenant farmers would not benefit the shopkeepers in country towns? whether merchants and bankers would not do a little more business? and whether lawyers, schoolmasters, fiddlers, clergymen, physicians, artists, authors, hairdressers, apothecaries, and other persons who have been described

as unproductive labourers, might not reasonably expect to come in for a share?

- 84—Whether the imperial revenue might not also share in the benefit in the increased ability of the nation to pay taxes, and in the increased consumption of all articles on which taxes are paid.
- 85—Whether all this might not be effected without taking away anything from any man, by calling into action sources of wealth which are now unproductive?
- 86—Whether there be not a wise lesson in the fable of the dog in the manger? and whether a landlord who will neither improve his land himself nor give his tenant a sufficient interest to enable him to do so, may not be exposed to the censure which the author of the fable intended for the dog?
- 87—Whether, if many mangers with hay in them had been occupied by such dogs, Æsop would not have gone on to tell us that the dogs had been chained?
- 88—Whether it be true that the Irish tenant farmers have seventeen millions of pounds deposited in banks? and whether there be not reason to believe that they have larger sums deposited or hoarded in other ways?
- 89—Whether the seventeen millions deposited in banks be not carried over to England to enrich English enterprise and commerce? and whether this has not the same effect on the national prosperity as the taking away to other countries of the absentee rents?
- 90—Whether, if the Irish tenant farmers had security of tenure any bank would offer a place of deposit either as safe or as profitable as their farms?
- 91—Whether if these seventeen millions were spent in improving their farms a great impetus would not be given to all Irish-trade and business?
- 92—Whether, especially the farm labourers, might not find their condition improved by the expenditure of such a sum upon the land?
- 93—Whether it might not even stay or diminish the emigration of that class to the United States?

- 94—Whether if the tenant farmers were expended upon the land, their farm labourers would have seen inclination to attend mid-night drills?
- 95—Whether it be not a beggardy thing it will be whine for the introduction of English capital are unemployed.
- 96—Whether the capital of every country is not country thrift and industry of its people? and whether it me that industry of the tenant farmers effected improvements at the farms these improvements would not consider a three country.
  - either as a knave or a fool the man win the second second wants is the importation of English capture. As second assent to a measure which would exact the second upon their farms nearly twenty military to the second upon their farms nearly twenty military to the second upon their farms nearly twenty military to the second upon their farms nearly twenty military to the second upon their farms nearly twenty military to the second upon their farms nearly twenty military to the second upon their farms nearly twenty military to the second upon the second up
  - 98—Whether, while the tenant farmers of interest the property of the people, are defined to the people, are defined to the people, are defined to the people of the people
  - 99—Whether Ireland done not passes a posses and capabilities of her soil? and whether me posses where the capabilities of her soil? and whether me posses where the capabilities of her soil?
  - enriched by the importation of fine which a their saint and another? and whether there he not more moranes of here since so by the importation of incinnery met sail!
  - 101—Whether it be premitted for the state meions of the orling as the Irish tenant farmers are alle met poor
  - 102—Whether Belfast he not a great mot intring over and whether it has been made so by the importation of Inglish capital or by the thrift, and energy, and encoupers of the proper themselves?
    - 103-Whether it be anything more than an accidental and

strange coincidence that Belfast is surrounded by a district in which the tenant practically enjoys to a great extent fixity of tenure, in which the tenant's property in his own improvements is held sacred, and in which no landlord would dare to raise the rent on account of the value added to a farm by such improvements?

- 104—Whether it be not a fact that in that district the "tenant right" in a farm held by its occupier, as tenant from year to year, is sometimes sold for a sum exceeding that which the landlord can obtain for his interest in the fee simple of the land?
- 105—Whether any landlord in Down or Antrim dare appropriate the price of such a tenant's interest to himself?
- 106—What would probably be the result if he attempted to do so?
- 107—Whether it has not been stated on unquestionable authority that if these landlords violated the custom which recognizes tenant right, all the troops at the disposal of the Horse Guards would not keep the peace of the district?
- 108—Whether the population of whom this has been said, be not constantly praised by their landlords as the only loyal and orderly portion of the Irish people.
- 109—Whether the rest of the population of Ireland might not be as loyal and orderly if they were treated in the same way?
- 110—Whether the rights of property be better understood and upheld in Tipperary or in Down? and whether a proprietor in Tipperary does not practise an arbitrary power of eviction which no landlord in Down would dare to exercise?
- 111—Whether if tenant right be a good thing in Ulster it might not be worth while to try the experiment of extending it to the rest of Ireland?
- 112—Whether Belfast would be as great a town as it is if the tenure of land by the occupier were as insecure in Antrim as it is in Tipperary?
- 113—Whether if the penal laws had been extended to Presbyterians the Ulster custom of tenant right would ever have existed?
- 114—Whether the golden rule does not bind all Irishmen, even those who have the advantage of being Protestants? and whether

if this be so, the tenant farmers of Down and Antrim ought not to assist those of the South of Ireland in obtaining that security of tenure which has conferred such blessings upon themselves?

- 115—Whether if they do not they either deserve, or are likely, long to retain their own custom of tenant right?
- 116—Whether any sufficient reasons can be adduced for considering it inconsistent with the true principles of Protestantism to assert that a tenant should not hold his land entirely at the mercy of his landlord? and whether there be not reason to believe that these principles, if strictly examined, might rather lean in favour of such an assertion.
- 117—Whether the latter view may not derive some confirmation from the fact that wherever the greater portion of the tenantry were Protestants the Ulster custom of tenant right has been enforced?
- 118—Whether some acts of Ulster landlords, and some writings recently published by some of that order, may not point to the conclusion that it is absolutely necessary that if this custom is to continue it should be protected by law?
- 119—Whether, if that custom be suffered to continue, it be consistent with equal laws and equal justice to deny the same protection to the occupiers of the soil in other parts of Ireland?
- 120—Whether the hearing of mass on a Sunday unfits or incapacitates a man for the enjoyment of tenant right?
- 121—Whether the circumstances in which they are brought up may not reasonably be supposed to influence the character of a people? and whether a tenant farmer who lives in perpetual horror of a land bailiff and a notice to quit can train up his children in the same habits of independence and self-reliance as one who feels that so long as he fulfils his obligations he is independent either of landlord or bailiff?
- 122—Whether, if the mass of the population be kept in a position of servile dependency any real public opinion or public spirit can be reasonably expected to exist?
- 123—Whether such a condition of the mass of the people be not calculated to produce in them all those faults and vices of

falsehood and cunning which all philosophical writers on human nature have shown to be necessarily the qualities of slaves?

124—Whether an Irish peasant who has been brought up in the belief that he has no right of property in that which his industry creates, but that the improvements produced by his thrift or toil may be legally seized by his landlord, may not be reasonably excused for having vague notions of the origin or justice of all proprietary rights?

125—Whether it has been truly said of the Irish people that they love impartial justice better than any nation under the sun? and whether justice has been done to them in regard to the occupation of the soil?

126—Whether the experience of all nations does not seem to suggest that in any country in which the mass of the people have not an opportunity of exercising their industry without exposing themselves to have the fruits of that industry seized by a superior, there cannot be either peace, prosperity, or order?

127—Whether this be not peculiarly exemplified in Ireland and in Turkey?

128—Whether the staple industry of Ireland be not labour in the fields?

129—How many Irish farmers can go out and labour in their fields with the feeling that the fruits of their labour must be their own and not liable to confiscation at the will of a superior?

130—What difference does it make to the tillers of the soil whether that superior be a landlord or a Pacha?

131—Whether, if the Pacha be subject to the control of a Sultan, and the landlord be wholly irresponsible, it might not be better for the occupier that a Pacha should be the depositary of the power?

132—Whether every system of laws is not to be judged of by its practical effect?

133—Whether it follows of necessity that a law which works well in a country where a landlord, at his own expense, supplies his tenant with all farm buildings, and lets his land furnished with all proper fences, and all matters of this nature, is therefore suited to a country in which the landlord does none of these things, and

in which all improvements that are made are made solely by the tenant?

- 134—Whether the existence of property in land has not been defended by moralists and jurists upon the ground that such property now really represents the labour and capital expended by a succession of proprietors upon the soil?
- 135—Whether as a body the proprietors of land in Ireland could assert a right founded on such expenditure either by themselves or by any persons whom they represent—and whether, on the contrary, it be not notorious that all the improvements on Irish land have been generally effected by the industry or the capital of the tenant?
- 136—Whether this consideration may not justly influence our legislation in determining the respective rights of the owners and occupiers of the Irish soil?
- 187—Whether it be true that in 1852 a bill was introduced into Parliament, by a Conservative Ministry, providing that no tenant in Ireland should be evicted from his holding until his landlord paid him the value of improvements effected on his farm? and that this bill passed the House of Commons, and received the assent and approval of all statesmen and all parties?
- 138—Whether if this bill were founded on justice a great many Irish tenants have not since been robbed?
- 189—Whether it be a wise thing for the English Government to proclaim to its Irish subjects that its law upon the subject of the property in tenants' improvements is opposed to natural justice and right?
- 140—Whether the Irish Ministers of the Crown, who introduced that bill can justly be called communists and spoliators of the rights of property? and whether the introduction of that bill was not the wisest act of their administration?
- 141—Whether a principle which was wise and Conservative in 1852 be necessarily revolutionary and communistic in 1866?
- 142—Whether the first duty and object of all governments be not to provide security for every man's industry and home? and whether it might not be worth inquiring what proportion of the Irish tenants practically enjoy this?

- 143—Whether English legislation has not always recognized and enforced the right of the people to live on the soil? Whether, from the days of Queen Elizabeth to those of William IV., any English landlord could have evicted his tenants without being obliged to find for them adequate support? and whether, if such obligation existed, it must not have exercised a very material influence on all the relations of landlord and tenant?
- 144—Whether, from the days of Queen Elizabeth, any English proprietor has ever had the power of turning the people off his estate and ridding himself of all responsibility for them in future? and whether this power has not been largely exercised by many Irish proprietors within the last thirty years?
- 145—Whether, if it were now discovered that Poyning's law had been re-enacted after the poor-law of Elizabeth, the whole rental of some Irish proprietors would not be exhausted in supporting the victims of their clearances?
- 146—Whether the law of Queen Elizabeth compelling English landlords to support their paupers on good wages did not savour much more of communism and spoliation than an act compelling Irish landlords to give all their tenants the means of living and improving their lands? and whether that law of Queen Elizabeth has not been justly extolled by all constitutional and orthodox writers as the foundation of England's greatness?
- 147—Why did not Queen Elizabeth enact a similar law for Ireland?
- 148—Whether, if she had been in a position to do so, and had done so, the whole course of events in Ireland would not have been changed?
- 149—Whether the existence of such a law in England while no similar law was in force in Ireland did not constitute an essential difference in all matters relating to landed property in the two countries?
- 150—Whether it be possible for any State to be prosperous in which the soil is occupied and tilled by persons who have no certain interest in their lands?
  - 151-Whether a law were not passed in the reign of Queen

- Anne which prohibited "Papists" from having any interest in land greater than a lease for thirty-one years, or at a rent less than two-thirds of the rack rent value of their holdings?
- 152—Whether this law was not counted one of the greatest grievances of the Roman Catholic tenants in relation to the occupation of the land? and whether it was not justly condemned by all politicians as entirely subversive of all improvement in the soil?
- 153—How many Roman Catholic tenant farmers would be affected by such a law if it were now in force?
- 154—How many of them have leases such as this law allowed, for thirty-one years, and at a rent of two-thirds of the setting value?
- 155—Whether it would not be a great boon to the occupiers of land in Ireland if they were all granted leases for thirty-one years, and at two-thirds of the rack-rent value?
- 156—Whether there be not some reason to suspect that the Roman Catholic occupiers of land are now worse off in relation to the tenure of their farms than their great grandfathers were under the operation of the penal laws?
- 157—Whether Roman Catholic tenant farmers be not now excluded from obtaining long leases even more effectually than they were under the penal laws?
- 158—Whether it makes any difference either to the occupiers or to the country whether the exclusion proceed from legislative enactment or from the voluntary determination of the landlords?
- 159—Whether Edmund Burke deserves the 'name of a Conservative statesman, and whether it be true that he has left on record very strong opinions as to the necessity of giving a long tenure to the Irish occupier of the soil?
- 160—Whether, all things considered, English statesmen and Irish landlords might not be more safe in being guided by the authority of Edmund Burke than in following that of any of those persons who now advise them not to concede tenant right?
- 161—Whether moralists and writers on jurisprudence have not alleged, as the foundation of all property, the right of every man to

enjoy that which his own industry has created? and whether this principle might not be considered in settling the position of the occupiers of the soil?

162—Whether we can safely conclude that the Irish land was created for the benefit of a few individuals? or whether the better opinion be not that it was made for the common benefit of all?

163—Whether our legislation as to Irish landed property may not fairly be influenced by the view we take of the subject proposed in the preceding question?

164—Whether, if all the proprietors in the country were to enter into a combination to exterminate the whole population, and take their estates into their own hands, it would be a violation of the rights of property if the State interfered to prevent it?

165—Whether, if matters were tending to such a state as this, legislative interference might not be necessary at some intermediate stage? and whether occurrences have not taken place in some districts in Ireland which made out a strong case for such interference?

166—Whether it be a conclusive proof of the prosperity of a country that every man, woman, and child who can run away from it does so?

167—Whether, on a fair and impartial consideration of the resources of Ireland and the character of her population, any reasonable Irishman ought to be satisfied with the condition of his country?

168—Whether it be true that the discontent of the people is the canker of the State?

169—Whether the condition of the Irish tenant at will be one which ought to content any man possessing the capacities, the feelings, the wishes, and the wants with which it has pleased God generally to endow human beings?

170—Whether England would be in the same condition as she is now if Louis XIV. had conquered William III., and made England a province of France? if the French King had further confiscated the property of the kingdom, and parcelled it among officers and soldiers of the French army, in satisfaction of arrears of pay, and if the descendants of these new French proprietors

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insisted at the present day on a power of turning out their English tenantry whenever they pleased?

171—Whether the discontent which Englishmen might feel at such a state of things would have been diminished or increased if penal laws had been passed against all English Protestants? if all political power had been exclusively confined to French Roman Catholics? if the native Protestant population had been excluded from every place and office, and from the acquisition of any freehold interest in land? and if a large force of French soldiers had been always kept in the kingdom for the purpose of enforcing the rents payable to the French proprietors?

172—Whether England would be really diminished in her strength and power among nations if every Irishman were an attached and loyal subject of the British Crown?

173—Whether the King of Prussia would have won the battle of Sadowa, if Stein and Hardenberg had not altered the Prussian land laws?

174—Whether if, during the revolutionary war, Lord Castlereagh and the English Parliament had delegated to Von Stein or Von Hardenberg the dictatorship of Ireland, and if the dictator had applied to Irish land tenure the principle which he adopted in Prussia, Ireland would not now be a very prosperous and contented country?

175—Whether there be really any obligation on England to maintain the present system of Irish land tenure, even if it be found injurious to the interests of the empire at large?

176—Whether there be a single Irish estate on which the conditions on which it was originally granted are fulfilled?

177—Whether it be a thing wholly abhorrent to justice that the English Government should insist on these conditions being practically carried out?

178—Whether large sums have not been expended from the Exchequer of the United Kingdom in keeping down or suppressing disturbances originating in the present system of land tenure in Ireland, and whether these sums might not have been more profitably employed in removing the causes of discontent?

- 179—Whether England has not, in such unprofitable expenditure paid more than the value of the fee simple of all Irish estates?
- 180—Whether the enmity of the Irish race, both at home and abroad, may not prove an embarrassment to England in any future war?
- 181—Whether any money can be more unprofitably spent by a sovereign than that which he expends in shooting his own subjects.
- 182—Whether it be possible that any nation should be really interested in the misery of another? and whether any class of the English people derive any benefit from maintaining the impoverishment and degradation of the Irish?
- 183—Whether all the conspiracies, either local or general, political or agrarian, in which the people of Ireland have engaged, from the days of Oliver Cromwell to the present, are not to be traced to the discontent created by the present tenure of land?
- 184—Whether it be, on the whole, more desirable that Ireland should be ruled by military force and arbitrary imprisonments, or by the good will of the people?
- 185—Whether Louis Napoleon has not boasted that there is not a political prisoner in a French prison? Whether this would be the case if the circumstances of land tenure which exist in Ireland existed also in France?
- 186—Whether there be any reason to suppose that the *Habeas Corpus* Act was an impolitic and unwise restriction upon the powers of the Executive? or whether it was not always thought to be a valuable protection of the liberty of the subject? and whether those who passed that act did so for the purpose of its being continually suspended?
- 187—How many years have there been, since 1690, in which Ireland has enjoyed the benefit of the British Constitution or of the Bill of Rights?
- 188—Whether a country can be called free in which every man is liable to penal servitude or severe imprisonment if, without the permission of the police, he carry a sword-cane, or possess a sword, or gun, or a pistol in his house?

- 189—Whether Fenianism would not have been very formidable if every Irishman had the right of having a musket and bayonet in his home?
- 190—Whether all the statutes passed for the protection of English liberty under William the III. were not passed upon the avowed principle of making it impossible for any sovereign to govern England in opposition to the will of the people? and whether all Irish legislation, from the battle of the Boyne to the present day, has not been framed with the express object of enabling the Irish Government to be carried on in defiance of the wishes of the Irish people?
- 191—Whether if a bill of rights were now passed for Ireland, declaring it to be the inalienable right of the Irish people to carry arms, any English Viceroy administering our present system of Government would sleep in peace at Dublin Castle?
- 192—Whether a demand by the Government for authority to disarm an entire people be not something very like an admission that they are governed as slaves?
- 193—Whether, if William the III. had asked for authority to disarm the English people he would not have been sent back to Holland as fast as he could pack?
- 194—Whether Silvio Pellico's narrative of the imprisonment of himself and his associates in Speilberg did not produce a great sensation throughout Europe, and whether the impression produced by it had not some influence in destroying Austrian power in Italy?
- 195—Whether the questions be not every day put, in foreign countries, how many political prisoners are confined in English and Irish gaols, and how these prisoners are treated?
- 196—Whether Silvio Pellico might not have found Pentonville or Mountjoy prisons to be even less comfortable than Speilberg?
- 197—Whether our system of land tenure be so admirable as to be worth all the odium and trouble it is causing to the Government of the Queen?
- 198—Whether the fancy of our English rulers for upholding that system has not been proved by experience to be a very expensive one? Whether Benjamin Franklin did not pay too

dear for his whistle? and whether nations and governments may not be guilty of the same folly as little boys?

199—Whether a good thing may not be purchased at too dear a rate? whether this principle does not apply even to Irish landlords? and whether England may not be paying too high a price for Irish landlords in the disaffection and hatred of the Irish race?

200—Whether, when a whole people are disaffected to their Government, this ought justly to be called the treason of the people to the Government, or the treason of the Government to the people?

201—Whether the apprehension of a Fenian outbreak, which existed in 1865 and in 1866, may not furnish profitable food for reflection both to all Irishmen and to British statesmen?

202—Whether a paper accurately counting the cost created to the country by these apprehensions—the expense of moving regiments to and from Ireland and Canada—the costs of special commissions, and all outlay occasioned by Fenianism, would not be a very useful study for any one desiring to become a politician?

203—Whether the sums so expended would not have been sufficient to try some of the many experiments recommended for the conciliation of Ireland? Whether they would not have been enough to construct a dockyard at Cork? to pay off the debentures of an Irish railway? to subsidize a Galway Packet Company? to purchase an Irish palace for the Prince of Wales? to reduce the duty on Irish whiskey? or to buy up the estate of the Duke of Devonshire, or some other Irish absentee? and whether any one of these applications of the money would not be better than that which has been made.

204—Whether it might not even be a good bargain for England that the two countries should enter into a contract that no more taxes should ever be levied in Ireland, and that no Irishman should ever join in a rebellious movement?

205—Whether it be not a startling thing to quiet citizens to see entrenchments thrown up close to the capital of Ireland, and all preparations made as they would be to resist an invading army?

206-Whether it tends to create confidence in commercial credit

to know that there are artillerymen, with cannon, stationed in the Bank?

- 207—Whether these preparations do not show an entire want of confidence on the part of our rulers, in the nation which they are supposed to rule?
- 208—Whether these preparations be not a reproach to any government—a great reproach if they be not necessary, and a still greater if they are?
- 209—Whether Ireland would not be a pleasanter country to live in if there never were any occasion for such preparations, even although landlords could not evict their tenants at their pleasure, and if all tenants held their farms at a fair rent?
- 210—Whether it be possible for any trade or business to prosper in a country in which such panics periodically take place?
- 211—Whether their return may not be calculated on with reasonable certainty as long as the great mass of the people are kept in their present state?
- 212—Whether it be not a miserable thing for a high-spirited Viceroy, of genial and generous disposition, to be compelled to barricade himself in her Majesty's Castle of Dublin, surrounded by artillerymen and double guards?
- 213—Whether he would be so if all Irish tenants enjoyed the same security of tenure as exists on the Abercorn estates?
- 214—Whether the owner of these estates does not imagine himself to be in full possession of all the rights of property? and whether they are not grasping at the shadow and losing the substance who object to the establishment of the same security throughout Ireland by law?
- 215—Whether it be wise states manship to sacrifice the peace and prosperity of a whole country to the prejudices and crotchets of a class?
- 216—Whether, if any foreigner has been on a visit in Ireland during the month of December he may not reasonably fall into the mistake of supposing that the only object of keeping Government in Ireland is to make preparations for shooting Irish rebels and to lock up suspected persons in gaol?

- 217—Whether, if there exists one-tenth of the danger which such preparations seem intended to meet, it be not a miserable result of our seven centuries connexion with a free, a generous, and enlightened people?
- 218—Whether it be not manifest that for the interests of all parties the sooner the system that has produced that result be entirely reversed the better?
- 219—Whether it be possible for any honest or conscientious Englishman to view with satisfaction the mode in which Irish Government has been carried on within the last two years?
- 220—Whether it be consonant to the principles of British jurisprudence that prisoners who are arrested on suspicion, and without any definite charge being made against them, should be subject to the discipline of a convict prison?
- 221—Whether a submission to that discipline, including separate confinement in a convict cell for twenty-two hours out of twenty-four—the denial of books and newspapers—together with complete seclusion from friends, do not constitute a punishment more severe than that awarded by the law to many persons actually convicted of crime?
- 222—How many persons are now kept in close confinement within the walls of Irish prisons without any charge being made against them, and without any possibility of either giving bail or demanding a trial?
- 223—How long is the suspension of the *Habeas Corpus* Act to last?
- 224—Whether, in most instances, the "suspicion" of the Lord Lieutenant or Privy Council as to the treasonable practices of a mechanic in a remote village, be not, in reality, the suspicion of the police?
- 225—Whether a police constable in a country district may not be reasonably excused if he does not accurately distinguish between disloyalty to the Queen and disaffection to the Irish officials and the police?
- 226—Whether every man in an humble rank of life in Ireland does not hold his liberty at the discretion of the police? and

whether the imprisonment of such a man may not bring his family to beggary and ruin?

- 227—Whether this state of things be perfectly satisfactory in a country forming with England one United Kingdom?
- 228—Whether, when the Legislature established and regulated convict prisons in Ireland, it ever entered into their contemplation that they were providing for the keeping of political prisoners arrested on suspicion?
- 229—Whether, in using convict prisons for the custody of such prisoners, they are not exactly applied to the purposes of the Bastile?
- 230—Whether the warrant of the Lord Lieutenant be not precisely equivalent to the lettre de cachet of the old French kings?
- 231—Whether, if the present system of government is to be permanent, there ought not to be provided for the custody of political prisoners, arrested on suspicion, a separate and distinct Bastile?
- 232—Whether this Bastile might not be built upon a site which would make it a striking object to persons entering the Bay of Dublin, so as to impress all foreigners visiting Ireland with a vivid idea of the paternal vigilance and care of our English rulers?
- 233—Whether such a building might not be made very useful in striking terror into the ill-disposed? whether for this purpose its walls might not be covered with appropriate representations of pitchcaps, triangles, and military floggings and executions? Whether prizes might not be offered for the best frescos of the most impressive scenes of the suppression of the Irish rebellion of 1798, the Indian mutiny, and the Jamaica rebellion; and whether such pictorial teaching might not both produce an admirable effect in conciliating the Irish, and also dispense with the necessity of some truculent articles and cartoons in the English press?
- 234—Whether it would be more creditable to the reign of Queen Victoria to build such a Bastile, or by wise and just legislation to secure to the Irish people the means of living on their own soil?
- 235—Whether if every Irish occupier held his farm by a lease for sixty-three years, at a fair rent, any person but a madman would suggest the building of such a Bastile?

- 236—Whether if John Bull be perpetually engaged in trampling out the flames of Irish rebellion he may not one day or other burn his own foot?
- 237—Whether Pharaoh's lean kine did not eat up the fat ones? and whether there be not an old proverb that hungry cattle know no bounds?
- 238—Whether it be not the true interest of every Englishman that the Irish people should be prosperous and contented, and whether it ought not to be the true interest of every Irishman that the English people should be so also?
- 239—What hindereth the two countries from being united both in interest and feeling?
- 240—Whether, if Irishmen be treated with justice and liberality there be really anything to prevent them being as loyal and contented as the English?
- 241—Whether the true secret of the success of all government be not to carry it on with reference to the good of the whole people?
  - 242-Whether this has ever yet been tried in Ireland?
- 243—Whether there can be found any trace of the visit of the Swedish Chancellor, Oxensteirn, to Ireland? and whether a celebrated remark which he addressed to his son does not make it very probable that he spent some time in Dublin Castle?
- 244—Whether the opinion expressed in that conversation will not be marvellously confirmed if the next session of Parliament closes without passing a very full and complete measure of protection to the Irish occupiers of the soil?
- 245—Whether some Latin poet did not say that when their kings went mad the Greeks were punished? and whether in the event contemplated in the last question the educated and intelligent classes of Irishmen may not find themselves in a position corresponding to that of the Greeks?
- 246—Whether these classes have any real interest in the upholding of landlord domination?
  - 247-Whether Bishop Berkeley did not, in the year 1740,

propose the following question:—"What should hinder us from exerting ourselves, using our hands and brains, doing something or other, man, woman, and child, like the other inhabitants of God's earth?" and whether any man can understand that question who has not studied the position in which the occupier of the soil is placed, under our present system of land tenure?

248—Whether the insecurity of the tenant farmer's tenure does not go far to furnish an answer to that question?

249—Whether tithes were not strongly objected to on the ground that the mode of levying them made them a tax on improvements? and whether a code of law which confiscates all improvements be not more discouraging to them than even a tax?

250—Whether, if insecurity of tenure has prevented, for the last fifty years, the tenant farmers from doubling the value of their farms, it has not had upon the national wealth precisely the same effect as if one half the land of Ireland were sunk in the sea?

251—Whether it hath not been long ago said that he is a public benefactor who makes two blades of grass grow where but one grew before? and whether he may not be regarded as a public enemy who so exercises his ownership over the land that only one ear of corn is grown where, but for his interference, there would be two or more?

252—Whether the whole system of landed property in Ireland be not the creation of English conquest?

253—Whether it be not maintained by the brute force of English power?

254—Whether if Ireland were left to her own resources that system would be permitted to continue unmodified for one year?

255—Whether this state of things does not impose upon all Englishmen a very solemn obligation to see that their power is not used for the purposes of oppression and wrong?

256—Whether the Earl of Kimberley, the late Lord Lieutenant of Ireland, can be justly denounced either as a revolutionist or a Fenian for suggesting this view of their duties to the British House of Peers?

257-Whether Mr. Disraeli, the present Chancellor of the

Exchequer, has not stated in the British House of Commons that inasmuch as the overwhelming power of England has prevented the grievances of Ireland from being redressed by their natural remedy—revolution—it is the duty of England to bring about the objects which, but for her interference, revolution would effect?

258—In what manner would the land question be settled if British troops were withdrawn from Ireland, and the island enclosed with a wall of brass a thousand cubits high?

259—Whether, if Irish landlords and tenants had been left, like the people of all other countries, to adjust their own affairs, without the intervention of the overwhelming power of another nation, the relations of the owners and occupiers of the soil would not long ago have been satisfactorily settled?

260—Whether it be not a possible contingency that one day or another a temporary crisis might arise, such as actually arose in 1782, during which England could not for the time exert an overwhelming power in Ireland? and whether it might not be a far-seeing sagacity in Irish landlords to anticipate and provide at once for such a contingency?

261—Whether it be not true that all proprietary rights in the land in Ireland are maintained by English military force? either by its actual presence or by the certainty that it would be present if required?

262—Whether there be any country in Europe, except Ireland, in which proprietary rights are maintained and enforced by foreign bayonets?

263—Whether this be not a monstrous and unnatural state of things, and calculated to destroy or pervert all the relations upon the working of which every orderly social system depends?

264—Whether its evil influence does not pervade our whole social system, and every part of our body politic? and whether by carefully tracing out its effects, we may not explain many of the most perplexing anomalies of the social condition of Ireland?

265—Whether this subject be not worthy of far deeper reflection than it has ever yet received?

266-Whether the position occupied, in such a state of things,

by the Irish gentry be not one highly detrimental to the character, the independence, and the public spirit of those who are placed in it?

267—What is likely to be the temper of an Irish gentleman who feels that he is surrounded by an unfriendly population from whom his income is extorted by the terror of English military force?

268—How many Irish landlords feel and know this in their hearts?

269—Whether the consciousness that their proprietary rights are really dependent on English bayonets be not calculated to alienate the Irish gentry from the interest and the people of their own country, and whether it does not foster in them feelings of dislike and distrust of that people.

270—Whether such a position does not deprive them of the citizenship of their own country without conferring on them that of any other?

271—Whether the constant habit, in any man, of feeling that he exercises rights over the people of his own country by the support of the military force of another nation, must not exercise an injurious influence even on the best of natures? and whether in coarse or inferior natures it may not foster the insolence of the tyrant combined with many of the cringing qualities of the slave?

272—Whether the characters of all men be not more or less moulded by the circumstances in which they are placed, and whether many faults, both of Irish landlords and Irish tenants, may not be justly traced to the unhappy nature of the relations between them?

273—Whether the dependence of the Irish landlords upon English power does not place even the highest and best of them in a position of humiliation?

274—Whether it does not, in some degree, unfit them for the efficient discharge of those duties, to secure the fulfilment of which is assigned as the great object of maintaining the class of landed proprietors in the State?

275—Whether this has not been used by the English Government as the reason or the pretext for depriving them of the influence, the powers, and the privileges which English estated gentlemen enjoy?

- 276—Whether this peculiarity of their position has not compelled them to submit to an amount of kicking, and cuffing, and contumely from the English Government which it is very galling to highspirited gentlemen to endure?
- 277—Whether they are not held up, in foreign publications, to the scorn and contempt of Europe as the basest of mercenaries, bartering their support of the English Government for the power of oppressing their tenants?
- 278—Whether at all times, when their services are not immediately needed, the influential organs of English public opinion do not visit them with equal contumely and insult? and whether anything has been printed, even in French newspapers, or German books of travel, as abusive of Irish landlords as the articles which have been published in *The Times*?
- 279—Whether the Irish landlords have not been called an English garrison in Ireland? and whether English statesmen may not yet arise who will be shrewd enough to know that a garrison which requires itself to be defended may be a source of weakness and not of strength?
- 280—Whether the Janissaries were not the most devoted adherents of the Sultan? and whether a Sultan was not one day found who thought it an act of wisdom and liberality, by a very summary process, to get rid of them all?
- 281—Whether English ministers did not pass the Act for the Sale of Incumbered Estates for the very purpose of getting rid of the Irish landlords, or as many of them as they could? and whether the Irish gentry have any security that it may not one day or other suit the caprice or the interest of an English minister to throw them overboard?
- 282—Whether their position might not be more safe as well as more proud, if they were relying upon the good will of their own people?
- 383—Whether there be a people on earth from whom it would be more easy to conciliate that good will?
- 284—Whether the Maroons occupied an honourable position in the last Jamaica outbreak?

- 285—Whether, if the miserable state of things now existing in Ireland be the result of English conquest, English confiscation, and English government, England be not bound to remedy it?
- 286—Whether, if Irish proprietary rights be maintained by English power, this does not impose upon England the obligation of reconciling them with the prior and higher right of the Irish people to live upon their native soil?
- 287—Whether it would not be a very desirable novelty to find on the statute book one Act of Parliament made for the advantage of the Irish tenant?
- 288—Whether England has not a far deeper interest in the settlement of the Irish land question than she can possibly have in any other conceivable question or subject relating to any part (outside the limits of England) of the habitable or uninhabitable globe?
- 289—Whether, next to the English nation, the Irish landlords have not the deepest interest in that settlement?
- 290—Whether it would be possible for Irish landlords and Irish tenants to come to an agreement as to their relations, under which both of them would be much better off than they are now? and whether to accomplish this anything more be necessary than a fair and unreserved application of the principle expressed in the maxim, "Live, and let live."
- 291—Whether the principle embodied in that maxim be not a good old Conservative principle?
- 292—Whether such a principle might not be fairly carried out in a measure which would give to every tenant a secure tenure at a fair rent? and whether if such a measure be proposed every true Conservative ought not upon his own principles to support it?
- 293—Whether it be an essential principle of Conservative policy that every Irish tenant should be kept in a state of serfdom in which he cannot call his home, his conscience, or his industry his own?
- 294—Whether, if a good landlord never intends to exercise the power of arbitrary eviction, or of seizing on the tenant's property in his improvements, it be not his interest that such a power should be taken away from the bad?

295—Whether, in old times, all publicans were not classed with sinners on account of the extortions committed by some of their class? and whether all Irish landlords may not find themselves in that predicament?

296—Whether a struggle by a class to keep possession of a power may not fairly raise a suspicion that they have not wholly renounced the intention of using it?

297—Whether there be truth in the saying that the interests of the landlord and tenant are identical? and whether it would not greatly promote the tenant's interest to have a long lease at a moderate rent?

298—Whether any landlord who really believes in this identity of interest can reasonably object to such a lease?

299—Whether any landlord, except one who robs his tenant, can profit by keeping him in a position of dependence?

300—Whether every landlord does not rob his tenant who uses his power to extort from him more than the fair value of his land—to confiscate his improvements—or to make those improvements the occasion of raising the rent?

301—Whether there be any honest way in which a landlord can make money out of the serfdom of his tenant?

302—Whether the landlords of Ireland would not be very unwise to insist on retaining their tenants in a state of dependence for the sake of keeping them in their power?

303—Whether any advantages that might possibly result from the power would be worth the evils that would certainly follow. from the dependence?

304—Whether the days of feudalism be wholly past as long as landlords insist on retaining a personal dominion over their tenants?

305—Whether, in times when feudalism was recognized, the lord had not duties to the serf as well as the serf to the lord?

306—Whether the attempt of a landlord to retain the remnant of feudal power, without incurring the obligation of feudal ties, may not place the tenant in a worse condition than feudalism itself?

307—Whether the dregs be not often the most bitter portion of the cup?

- 308—Whether a landed proprietor might not live comfortably and happily, enjoy all reasonable influence and respect, and efficiently fulfil all the duties of his station, even although his tenants enjoyed the independence which security of tenure would afford?
- 309—Which has more real influence with his tenants—a landlord in Tipperary or a landlord in Down?
- 810—Whether a landlord would be made miserable if his rents were punctually paid, even though he knew that his tenants were living in comfortable houses, eating good food, and wearing sufficient clothes, and were at the same time making improvements by which they were, by their thrift and industry, creating for themselves and their children a fine property in their farms?
- 311—Whether an independent tenantry be not absolutely essential to the freedom of the State?
- 312—Whether any Irish landlord can reasonably expect that fendal relations will be long maintained in Ireland when in every other country in Europe, even in Russia, they have been destroyed?
- 313—Whether the various causes of antagonism which exist between the proprietors and occupiers of the Irish soil furnish any peculiar reason why in Ireland these relations should be maintained?
- 314—Whether, on the other hand, these causes of antagonism may not supply some reason for thinking that Ireland is the very last country in Europe in which the proprietors should be armed with absolute dominion over the tillers of the soil?
- 315—Whether any prudent man ought to covet the exercise of such rights over a people who look upon him as an alien, and who regard everything that he does with suspicion and distrust?
- 316—Whether he were a very foolish man who said, that "a dinner of herbs where love is, is better than a stalled ox and hatred therewith?" and whether the saying may not have some application even to the relations of an Irish landlord to his tenants?
- 317—Whether the experience of some Irish families, once clothed with grand territorial possessions, may not suggest reasons for thinking that King Solomon, or whoever was the author of that

saying, was not so deficient in worldly wisdom as he might at first appear?

- 318—Whether the proprietors can have any real or permanent prosperity in a country in which they are surrounded by the hatred of the people?
- 319—Whether Irish landlords might not escape that hatred by consenting to measures of justice to their tenants, even without reducing themselves to a dinner of herbs? and whether after such measures they might not still dine upon roast beef; and even, if they pleased, upon the beef of a stalled ox?
- 320—Whether every Irish landlord ought not to have for himself and his children a far deeper interest in the general prosperity and well-being of the country than he can have in attaching personal dominion over his tenants to the ownership of his estate?
- 321—Whether he be not the most prosperous landlord who has on his estate the most prosperous and contented tenantry?
- 322—Whether, if it be conceded that it is not essential to keep the Irish occupier in a state of serfdom there remains any valid objection to giving him a lease for a good term of years, at a rent equivalent to the fair letting value of his farm?
- 323—Whether such a settlement of the Irish land question would not greatly conduce to the strength of the empire, and be highly beneficial to all persons interested in Irish land?
- 324—Whether any man can really believe that a settlement of that question must not one day or other take place? and whether it might not be better both for owners and occupiers that it should take place soon?
- 325—Whether the landlords may not be the party most interested in such an adjustment being speedily brought about?
- 326—Whether the Sybil did not offer her books three times to the Roman King? and whether the King would not have done better if he had taken them at her first offer?

- [The following twenty-three Queries are unanswered questions of Bishop Berkeley, proposed by him more than 120 years ago, but still pertinent to and profitable for the present time.]
- I.—"Whether there be any country in Christendom more capable of improvement than Ireland?
- II.—"Whether we do not live in a most fertile soil and temperate climate, and yet whether our people in general do not feel great want and misery?
- III.—"Whether if the crown of the wise be their riches" we are not the foolishest people in Christendom?
- IV.—"Whether there be upon earth any Christians, or civilized people, so beggarly, destitute, or wretched, as the common Irish?
- V.—"Whether, nevertheless, there is any other people whose wants may be more easily supplied from home?
- VI.—"Whether the four elements, and man's labour therein, be not the true source of wealth?
- VII.—"Whether it were not wrong to suppose land itself to be the only wealth? and whether the industry of the people ought not first to be considered as that which constituted wealth?
- VIII.—"Whether there can be a worse sign than that people should quit their country for a livelihood? Though men often leave their country for health, for riches, or pleasure, yet to leave it merely for a livelihood, whether this be not exceedingly bad, and showing some peculiar mismanagement?
- IX.—"Whether it be not a sure sign or effect of a country's thriving to see it well cultivated and full of inhabitants? and whether, if so, a great quantity of sheepwalks be not ruinous to a country, rendering it waste and thinly inhabited?
- X.—"Whether the County Tipperary be not much better land than the County of Armagh, and yet whether the latter is not much better improved and inhabited than the former?
- XI.—"When the root yieldeth insufficient nourishment, whether men do not top the tree to make the lower branches thrive?

<sup>\*</sup> Proverbs, xiv., 24.

- XII.—"Whether we should not cast about by all manner of means to excite industry, and to remove whatever hinders it, and whether everyone should not lend a helping hand?
- XIII.—"Whether the way to make men industrious be not to let them taste of the fruits of their industry? and whether the labouring ox should be muzzled?
- XIV.—"Whether to provide plentifully for the poor be not feeding the root, the substance whereof will shoot upwards into the branches, and cause the top to flourish?
- XV.—"Whether the real foundation for wealth must not be laid in the numbers, the frugality, and the industry of the people?
- XVI.—"What folly it is to build fine houses, or establish lucrative posts, or large incomes, under the notion of providing for the poor?
- XVII.—"Whether there is any country in Europe, either kingdom or republic, depending or independent, free or enslaved, which may not afford us a useful lesson?
- XVIII.—" Whether we are not, in fact, the only people who may be said to starve in the midst of plenty?
- XIX.—"Whether it be not the industry of common people that feeds the State?
- XX.—"Whether there are not single market towns in England that turn more money in buying and selling than whole counties, perhaps provinces, with us?
- XXI.—" Whether an indifferent person who looks into all hands may not be a better judge of the game than one who sees only his own?
- XXII.—" What should hinder us from exerting ourselves, using our hands and brains, doing something or other, man, woman, and child, like the other inhabitants of God's earth?
- XXIII.—" Whose fault is it if poor Ireland still continues poor?"
- 327—Whether these same questions are to be repeated by some Irish bishop, priest, or layman, at the end of the next 120 years?
- 328—Whether seven centuries be not a sufficient time for a fair trial of the experiment of governing a country by coercion? and whether it may not at the close of them be worth while to try the experiment of another system for seven years?

### STATEMENT OF FACTS

IN REFERENCE TO THE

# FARM OF ROSSENA;

AND

### ILLUSTRATIVE OF THE EVILS

OF THE

## PRESENT LAND SYSTEM OF IRELAND.

BY GEORGE COOKE, ESQ.

DUBLIN:

JAMES B. GILPIN, 59, DAME-STREET.

1851.

Price Sixpence.

<sup>&</sup>quot;I know that it is impossible for human wretchedness to exceed that of the miserable presently i—I know that the unhappy tenantry are ground to powder by relentless landlords!—I know that they have not food or raiment for themselves!"—Lond Clark, Lond flum Charcellon or Indiana.

<sup>&</sup>quot;In Ireland the mode of letting lands is as destructive a system of extortion as can be conceived,"—Da. CRUMP'S PRIZE ESSAY ON IRELAND.

15 Gardenus plan

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### To

### THE MOST NOBLE THE MARQUIS OF LANSDOWNE,

AND

THE MOST NOBLE THE MARQUIS OF ORMOND, who.

HAVING PUBLICLY DECLARED THEIR INTENTION OF HAVING THEIR ESTATES VALUED BY COMPETENT AND DISINTERESTED PERSONS, AND LETTING AT THOSE VALUATIONS,

DESERVE

THE THANKS OF EVERY TENANT FARMER IN IRELAND-

# This UNork

IS MOST RESPECTFULLY DEDICATED

BY

THE AUTHOR.

Dublin, 24, Harcourt street, January, 1851.

### A STATEMENT,

фc.

#### SECTION L

General Principles of Land Question briefly stated—unfairness of the competition for land—reasons why that competition is an unfair regulator of rent.

THE author of the following pages is free to confess, that the statement contained in them, in the first instance, concerns himself individually—yet, as his justification for presuming to lay that statement before the public, he submits that the facts of his case will be found strongly to corroborate the opinion which has for some years forced itself on most reflecting minds,—until now, at length, it is all but decided and unanimous—that the vices of the relation of Landlord and Tenant in Ireland have been mainly, if not exclusively, instrumental in destroying the peace and prosperity of that country-and in casting down her people from that high position of peace, plenty, and national wealth, which the bountiful hand of nature would seem to have assigned them, to become the prey to turbulence, disease, famine and death. The chief actors—active and passive—in this tragedy of a people's ruin, will be brought prominently forward in the following narrative of facts. On the one-hand, the landlord and agent as the active parties—the parties wielding with

destructive force all the elements of evil inherent in the system of Irish land tenure. And, on the other hand, the passive party, the unfortunate tenant, who having long but vainly struggled against these elements, at length, overwhelmed by their force, sinks the victim of unavailing efforts, mocked hopes, and ruined fortunes.

It is thus the tenant falls—but does he fall alone? Do not all the interests in the country, from the highest to the lowest, fall with him? From whom, but the tenant, can the various domestic trades around him derive employment? From whom, but the tenant, can the labourer, the manufacturer, the professional man, or the shopkeeper derive employment or business? so that it may be truly said that when the tenant falls the entire country falls with him-a position amply verified by the present prostrate state of this country. So wide spread and complete, indeed, has been the ruin effected by the present vicious system of Irish land tenure, that the very landlord class itself has been swallowed in the vortex of Irish landlordism. And yet it requires but a small share of discernment to see that the tenant is the chief agent in developing the productive powers of the soil, while the landlord contributes nothing towards these important results—his entire part consisting in becoming the recipient of the good produced by the labors of the tenant; and, as if all this were not sufficient, he is armed by the present vicious system of land tenure, with powers utterly to ruin the tenant. This, it must be admitted, is a state of things alike repugnant to every principle of justice, and to every sound economic principle.

A wise and equitable land system would act a very different part, and speak a very different language, to the two parties of landlord and tenant, than that of arming the landlords with all the powers of extortion, tyranny, and oppression, and of entailing on the industrious tenant, poverty, ruin, and extermination. It would say to the landlord—"You are highly favoured by the State in being secured a claim to a

share of the produce of the soil on which you have not toiled—to take from the industrious tenant a portion of the fruit of the sweat of his brow-and, by this means, to live in every degree of ease from simple comfort and independence up to almost boundless magnificence. But we will restrain your hands, that in taking a portion from the tenant you shall no longer deprive him of all, save a miserable potato. you shall no longer make the tenant your victim, who is your greatest benefactor, by casting him as a worthless weed from the land, when it may suit your interest or caprice. That you shall no longer suicidally destroy your own interests, nor those of your country, by destroying the tenant, who stands not only the maker of his own prosperity, but the main pillar which supports the trade, commerce and manufactures of the nation, and of the empire." Again, it would say to the tenant-"You shall no longer continue the victim of landlord monopoly and oppression,-you shall be no longer abandoned to the reckless competition for land which drives rent up to so exorbitant an amount, that while you are permitted to toil on the land, it takes the whole produce, the entire fruit of labor, less by a dry potato, to pay that exorbitant rent, and at any time it may suit the interest or caprice of your landlord to take even that pittance from you, he can do so by exterminating you altogether from your farm. But a wall of brass shall be thrown around your rights and interests fully to secure you from the foregoing atrocious evils. Your rent shall be regulated by a fair and equitable standard, securing you in the whole of what you can make over that fair rent for your own support. And for full security of tenure, so long as you and yours pay that fair rent, the gladsome sun shall never bring to your eyes the light of that doleful day when a tyrant landlord shall tear you from your farm, and cast you as a worthless weed, without home, without food, and without hope, upon the world!"

While animated by considerations far higher than his own personal interests, in contributing his mite towards demon-

strating the utter injustice and impolicy of the present land system of Ireland—in aiding in the overthrow of that system, and in the establishment of a just and sound system in its place, the author rejoices to think that in the performance of a solemn duty to his country, he is not called upon to enter into a personal quarrel either with the Earl of Kenmare, who is the landlord in the present instance, nor with his agent, Mr. Galwey. From both, he acknowledges to have received much, very much, courtesy, but then an exorbitant rent was demanded. To all his communications, he received the most prompt and polite replies, but still an exorbitant rent was the SINE QUA NON. Even his right to a preference, from the long and honorable occupancy of his family, was freely conceded to him, but still an exorbitant rent was demanded. He admits that the law, as it stands, has not, in his case, been exceeded; that the present vicious system of land tenure has not been stretched beyond its own wide boundary of oppressive harshness, and that so far as he has reason to complain of harsh and unfair dealing, his complaint lies against the system, and against that only.

If, then, the author has to do with men in his landlord. and in the agent of that landlord, whom he scorns to blame, he feels himself imperatively called upon to point out with as much clearness and precision as his pen is capable of, what he conceives to be vicious in that system of land tenure to which he so exclusively attributes his own failure of obtaining justice and fair play, and, by a parity of reasoning, the failure of the tenantry of Ireland generally in obtaining And his conviction is, that this will advance the the same. cause of truth, as regards this great and important question, much more effectually than the usual practice of dealing out unmeasured abuse and vituperation against the landlords who are themselves the victims, no less than the tenantry, of a system intrinsically unjust, and fraught with the greatest evils to all parties concerned.

It appears, then, quite plain to the author, that there is but

one clue to the whole question of landlord and tenant, and it is this, that the evils of the system, as shown by the following narrative of facts, will be found to have their root in the monopoly of land enjoyed by landlords. Landlords possess the exclusive disposal of the limited commodity of land. All, therefore, must go to the landlord's monopoly shop for farms—for the scarce and limited article of a farm. The inevitable result is, that at that shop will be found competition so excessive, as must ever preclude the unfortunate tenant from having the slightest chance of just or equitable dealing. Hence it will be found that the farm which forms the subject of the following statement was at the two periods of 1747, and 1757, when the population of this country was much thinner than at present, and consequently farms more plenty, let for eight shillings per acre, is now when agricultural produce is scarcely higher in price, set down at six and seven times that sum. Now we will ask, with which of these systems will justice and fair dealing consist—with that which would estimate the rent fairly and moderately by the prices of agricultural produce—or with that which would estimate it according to the amount offered by a blind, excessive, and reckless competition? Were the two systems now for the first time to be presented to our mind, would we not, prior to any experience of their working, unhesitatingly pronounce of the first, as that which must lead to the complete prosperity of the tenantry and of the country; and of the second, that it must as surely lead to the utter ruin of both? But what says experience? The most ample experience proves that the mode of striking the amount of rent by the competition for land has worked to the utter ruin of the tenantry and the country. We will further ask, does experience pronounce that this mode has worked well even for the landlords themselves? Rather does not experience prove that they have, through the working of that system, Samson-like, pulled down the entire social edifice upon their own heads, involving all-tenantry-landlords-country-in one common desolation!

Having thus made the plain avowal of his full conviction, that the undue competition for land is that unfair principle which vitiates the land system of this country, and having on behalf of himself, and of the tenantry at large, repudiated that competition as a regulator of rent, the author must disavow any intention of wishing to refer the most important matter of amount of rent to any standard, other than that which would be alike fair to landlord as to tenant. a landlord himself to a greater extent, many times, than he is a tenant, and he feels fully convinced, both as a landlord and a tenant, that no standard can be fair which will not fix the amount of rent by the data of the average prices of agricultural produce, and the productive powers of the soil. He will not undertake to say, how far the poor-law or Mr. Griffith's valuation may approach to such a standard, but he is fully convinced that the very great importance of having the amount of rent between landlord and tenant fairly fixed would fully warrant, if it would not imperatively call for, a new and more exact valuation than either.

### SECTION II.

Facts of the case of the farm of Rossena—all conclusive of the truth of the general principles laid down.

From these great leading principles of the question of landlord and tenant, we proceed to the particular facts of the case of the farm of Rossena, and which will be found to illustrate and prove the correctness of those principles.

The farm of Rossena is situated in the barony of Sleve-marague, Queen's County, and contains 181 acres, 2 roods, late Irish plantation measure, or 299 acres, 2 roods, 26 perches, British, and in the year 1700, was the estate of William Cooke, of Painstown, County Carlow, (now Oakpark, the property and residence of Col. Bruen, M.P. for.

that county). How long previous to 1710, the ancestors of the present tenant held the lands of Rossena, cannot now be ascertained, but from documents in his possession, it is proved that Rossena has been held by them for five generations in regular succession, for a period of about 150 years. The following Table will bring the statistics of the farm of Rossena immediately under the reader's view, from the year 1710, down to the present year 1850:—

Landlord.	Tenant.	Made lease.	Acre- able rent	Yearly rent.	Length of Lease.	Price of wheat per quar- ter of 32 stone.	Population.
William Cooke, Thes. Cooke, son	George Cooke, Geo. Cooke, son	1710	s. d. 5 0	£ s. d. 41 8 2	31 yrs.	£ s. d. 3 18 0	Mills.
of above, o T. Cooke, same,	of Geo. Win Cooke, son	1717	8 0	72 19 0	31 yrs.	1 14 10	2)
Val. Brown, 1st Earl of Kenmare,	of Geo.	1757	8 0	72 12 0	31 yrs.	3 0 0	3
Val. Brown, 2nd Earl of Kenmare	Robert Cooke, George Cooke,	1791	18 5 35 asked	167 10 9 317 12 6	3 lives or 41 yrs. vr. to vr.		5 8

<sup>\*</sup> Thomas Cooke left one son, who died without issue, and one daughter, who married Thomas Brown, the father of Valentine, first Earl of Kenmare, through whom the Kenmare family inherit the Queen's County Estates.

Robert Cooke, the father of the present tenant, to whom the last lease of 1791 was made, died in the year 1818, and his interest in those lands was sold under a decree of the Court of Chancery. So anxious, however, was the present tenant to obtain possession of the property on which his ancestors lived for five generations, and where his own early years had been spent, that after twenty years of unwearied perseverance and industry, in a laborious profession, he was enabled, previous to the year 1838, to obtain the possession, and afterwards to re-purchase the interest that then remained of all the property held by his father from the Kenmare family.

At this time, the lands of Rossena, which he determined to keep in his own possession, were in a worn out and exhausted state from over cropping and bad farming, as every person who held them for the previous twenty years, exhausted them by every ingenious means in their power, without regard to their future improvement, so much so, that

many years, and a very considerable outlay of expenditure, were required to bring them to that improved condition in which they will be a paying, still less a profitable concern.

While the property was under the direction of the Court of Chancery, the former residence was burned, and the then occupier having put the compensation allowed him from the county in his pocket, built a small miserable house in its stead. Some idea may be formed of the buildings on the place, from the fact that in 1839, they are only estimated at £7. 1s., by the Ordnance valuation.

Shortly after the present tenant had so purchased, he informed Mr. Galwey, the agent of Lord Kenmare, of his having done so. Mr. G. in reply assured him that his lord-ship never disturbed an improving tenant, provided he occupied the lands, and was punctual in his engagements.

Confiding, therefore, in the length of time the farm was held by his family, and further encouraged by this communication from Mr. Galwey, backed by repeated promises from Lord Kenmare, that if he agreed with the agent as to the. rent on the expiration of the lease, he would be continued tenant; he was encouraged to effect the following series of expensive and permanent improvements on the farm, viz:—A new dairy—a new coal-house—a new car-house and granary over it-a row of cow-sheds, capable of containing twentynine milch cows - new roofed the barn and remaining outhouses—repaired the walls and erected stalls for fattening twenty head of cattle-built calf houses and pig sties-made sewers and passages into the boggy fields which had never been there before - commenced building an addition to the dwelling-house-divided the farm-yard into compartments. and in them, fed for the last four or five years through the winter, 100 head of black cattle, of all descriptions and ages—drained at his own expense, some of the worst part of the bog-land, which, in consequence, is now dry, and yields good grass, as marked number four in the Ordnance valua-

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law, justice, and fair dealing! the sole protection which the tenant has from ruinous extortion is the sic volo, sic jubeo\* of the agent!

But to proceed.—The rent required by Mr. Galwey for 181A. 2R. of Rossena would be £317 12s. 6d. The tithe rent charge £14 17s. 4d. The grand jury cess about £34, and the tenant's portion of poor rate £40. Making in the entire £400. and upwards per year, and adding to this sum the average weekly expenditure for labor and various other expenses at £5 a week, or £250 a year, so that the large sum of £650 a year must be cleared before the tenant can put one shilling in his pocket—and Mr. Galwey modestly demands from him (the tenant) to know will he be prepared to give up the possession of the land on the 1st of May 1850, if he does not accede to his terms, being, as he says, satisfied he will be offered an higher rent from another the moment the present tenant vacates the farm.

Although it is impossible that the farm of Rossena can ever make the rent demanded for it, still, however, the agent is absolute, and the tenant finds every door to justice and fair dealing closed against him, and is left no resource but either to abandon for ever the home of his ancestors, or to submit, and promise to pay a rent which must reduce his capital very considerably each year, rendering him, after some time, incapable to meet his engagements, and ultimately terminate in insolvency and ruin-with probably, as generally happens in such cases, the loss of a few years' rent to the landlord, exhausted land, and dilapidations. It is plain, that the agent has never made any valuation of the lands at all, nor does he trouble his head about any such thing—he knows very well, however, what the undue and unfair competition for land is—the many persons bidding one against the other for the one farm - at a glance he may know what rent he will obtain through this reckless competition. however, the agent stands shaking his whip of scorpions,

<sup>\*</sup> Thus I will-and thus I command.

the competition for land, over the shoulders of the tenant, the latter has no legal standard to appeal to, but that of the Ordnance valuation, and although he may not, by this appeal, be the nearer to the obtainment of justice for himself, he hopes he will throw much light upon an evil which has long preyed upon the vitals of this country.—His appeal then is to the

ORDNANCE VALUATION AND SURVEY.

#### SECTION III.

The Ordnance valuation not as generally known to the farmers of Ireland as it deserves—importance of such a standard of appeal against the competition for land and exorbitant rent—general view of that valuation.

THE author considers that the Ordnance Valuation and Survey are not sufficiently known or appreciated by the tenantry of Ireland. It will, however, be found the only standard approaching to fairness, to which the oppressed occupier of the soil has to make an appeal against the all-devouring evil of exorbitant rent. The Act of Parliament on which that valuation and survey are founded, 6 and 7 Wm. iv. chap. 84, gave powers to the officers (like the Court of Chancery, Exchequer, and Court for the sale of encumbered estates) to make rules and regulations for the guidance and direction of the valuators appointed to act under its authority. The intention of the Act being that a valuation of the lands of Ireland should be made on a uniform principle and scale of prices for agricultural produce; so as to insure that the relative value of the land within any county, though ascertained at different periods, should be the same.

To effect this object the Legislature, in the IX. Section of the Act, has directed that the following scale of prices of agricultural produce shall be considered to be the standard for the valuation of Ireland; and all valuations must be given, as if the standard prices were the prices of the several kinds of agricultural produce at the time the valuation is made.

#### SCALE OF PRICES.

- Wheat, at the general average price of ten shillings per hundred weight, of 112lbs. or £1 5s. the barrel of 20 stone, or £2 per quarter of 32 stone.
- Oats, at the general average price of six shillings per hundred weight, of 112lbs. or 10s. 6d. per barrel of 14 stone.
- Barley, at the general average price of seven shillings per hundred weight, of 112lbs. or 14s. per barrel of 16 stone.
- Potatoes, at the general average price of one shilling and seven pence per hundred weight of 112lbs.
- Butter, at the general average price of sixty-nine shillings per hundred weight of 112lbs.
- Beef, at the general average price of thirty-three shillings per hundred weight of 112lbs.
- Mutton, at the general average price of thirty-four shillings and six pence per hundred weight of 112lbs.
- Pork, at the general average price of twenty-five shillings and six pence per hundred weight of 112lbs.

In the directions given to the valuators how their duties were to be performed, it was amongst other things directed, that in fixing the value on the land, the valuator is to act as if he were employed by a liberal landlord, to value land for letting to respectable tenants, at the then average price for agricultural produce. This valuation will be afterwards corrected and reduced to the scale of prices prescribed by the Act.



# CLASSIFICATION OF SOILS, WITH REFERENCE TO THEIR VALUE.

Soils, with reference to their value, may be divided into five classes:—

- A Prime land, rich loamy earth.
- B Medium land.
- C Poor clayey, shallow, or stony arable.
- D Cultivated moors, or bogs.
- E Natural pastures, and bogs.
- A 1. Superior arable, strong, deep, rich, either alluvial, or upland, and clear of spots of waste, springs, or other imperfections,—30s. to 27s. 6d.
- A 2. Superior arable, strong, deep, and rich, with spots of moory, or wet land intermixed, and which have been deducted, and valued at a lower price,—27s. to 25s. 6d.
- A 3. Superior arable, not so deep or strong as the foregoing, or being a little steep, or exposed,—24s. to 21s. 6d.

#### MEDIUM SOILS.

- B 1. Good medium loams, or inferior alluvial land, of an even quality,—21s. to 17s. 6d.
- B 2. Good loams, mixed with moory, or light hilly spots deducted,—17s to 14s 6d.
- B 3. Medium land, even in quality, but rather shallow, steep, rocky, or exposed to injurious winds,—14s. to 11s. 6d.

#### POOR SOILS

C 1. Rather shallow, or cold, or mixed, or steep, (inferior land),—11s. to 9s. 6d.

- C 2. Cold, or shallow, or gravelly, or mixed, or steep, poor, or worn, (bad land),—9s. to 7s. 6d.
- C 3. Very shallow, or very wet, or very cold, worn out, or sandy, with porous subsoil, or high, or steep, or very stony, (very bad land),—7s. to 4s. 6d.

### CULTIVATED MOORS, OR BOGS.

- D 1. Good moory soil, well drained, on a good subsoil,—15s. to 11s. 6d.
- D 2. Medium moory soil, drained, and in good condition,— 11s. to 7s. 6d.
- D 3. Poor moory, or boggy arable, wet or unmixed with earth,—7s. to 4s.

### NATURAL PASTURES.

- E 1. Green shrubby, or rocky, or steep, low land pasture, or green pasturable mountain, with spots of rock, or heath interspersed,—8s. to 5s. 6d.
- E 2. Good heathy mountain, with green pasture through the heath,—5s. to 3s. 6d.
- E 3. Good heathy pasture, with spots of green pasture intermixed,—3s. to 1s. 6d.
- E 4. Heathy pasture, high, and remote; or cut away bog, partly pasturable,—1s. to 4d.
- E 5. Red bog, or coarse high, remote mountain tops,—
  3d. to 1d.

### SECTION IV.

1	Ordnance Faluation of Rossena; by the May we we deviace much some	200	a assess	200000		F	June of
No.	Townland of Rossena. Subdenominations and Observations.	Que	Quantity.	Rate per Statute Acre.	Amount Land.	of one	Amount or Houses one-third being deducted.
		4	B. P.	£ 8. d.	£ 8.	4	£ 8. d
-	Arable, sandy and gravelly clay, deep, or gravelly, or sandy clay, subsoil; lies well, about one-fourth inferior, Medium depth, or gravelly clay subsoil, Also, green, rocky pasture, at ditto quarries,	801-	2 25 1 0 1 0	1 0 6 0 14 3 0 5 6	62 3 1 12 0 6 8	200	
01	Arable, gravelly clay, light deep in spots, on gravelly clay subsoil; one-third better,  Also, light, gravelly arable, and cold sandy and moory clay pasture, Also, old gravel pit pasture,  Also, waste houses	2100	3 25 3 0 1 10 1 15	1 0 0 13 6 0 1 6 0 1 6 0 1 6 0 1 6	15 18 1 3 0 0		
93	Arable and pasture, sandy and gravelly clay, medium depth on gravelly subsoil; part moory, grassy, uneven, Also, coarse green pasture, on moory and sandy clay,	22 22	1 32 0	0 14 6 0 9 0	15 10 1	10	
4	Pasture, cold sandy clay, and moory clay, very grassy, medium depth, on sandy clay subsoil, Also, coarse green pasture, on moory clay, very lately improved,	. 66	1 5 2 0	0 15 6 0 8 0	2 4	80	
73	Also, moory, arable and green pasture,	6,80	3 25 1 0 2 0	0 12 0	51 0 4 19 0 0 6 0	-00	
9	Pasture, moory clay, and bog lowlands, much better, grassy medium depth, on sandy clay, and gravelly and moory subsoil,	8	1 32	6 6 0	14 16	6	
-	Arable, grassy and sandy clay, deep one-third, a little inferior, all on gravelly clay subsoil,	82	3 25 0 15	0 21 0	34 11 1	_	
α	William Cooke, house and offices,		:	i		-	0 01 4
,		599	1 26		£256 10 7		£7 1 0

### SECTION V.

Four proofs of exorbitancy of rent, in the rent now demanded for Rossena, drawn from the table page 9, containing dates of leases, rents, &c.—Four additional proofs of exorbitancy of rent, in the rent now demanded for Rossena, drawn from the Ordnance Valuation of the farm.

Having arranged our facts principally under two heads: first, under that of the several leases which have been made of the farm of Rossena, for 140 years, as detailed in table, page 9. And second, under the head of the Ordnance valuation—we shall now proceed to point out to the reader's special attention, as briefly and clearly as we can, the several proofs derived from these two sources of the exorbitancy of rent involved in the amount of rent now demanded for the farm.

With respect, then, to the four leases made of Rossena, and given with their dates, rents, &c., in the table, page 9, the first of these leases was made in 1710, 140 years ago, at 5s. per acre, which is exactly one-seventh of the rent now demanded for the farm; besides, in addition, two taxes, one poor-rate, unknown then; the other county cess, then almost nominal; but each amounting now to the entire rent of that day; the present rent demanded making in all nine times the amount of rent paid in 1710; while wheat was at that day £3 18s. the quarter, and is now less than half that sum.

The second lease given in the above table was made in 1747, thirty-seven years after the first lease, and 103 years ago; and the rent was raised to 8s. per acre, not a *fifth* of the rent now demanded, although the price of wheat of that day was higher than it is at present.

The third lease, made in ten years after the second, was at the same rent of 8s. per acre, still less than one-fifth of the rent now demanded, while wheat was nearly double its present price.

The fourth and last lease was made in 1791; the rent was more than doubled, being raised to 20s. Irish per Irish acre, while wheat stood at double its present price.

First proof of exorbitancy of rent.—So that the rent demanded now is nine (!!!) times the amount of that paid in 1710, when wheat was double its present price.

Second proof of exorbitancy of rent.—The rent demanded now is five (!!!) times the amount of that paid in 1747, when wheat was higher in price than at present

Third proof of exorbitancy of rent.—The rent demanded now is more than five (!!!) times the rent paid in 1757, when wheat was more than double its present value.

Fourth proof of exorbitancy of rent.—The rent demanded now is more than double (!!!) the amount of that paid by the lease of 1791, when wheat was more than double its present price.

If the reader will cast his eye over the table so often referred to for the foregoing proofs of exorbitancy of rent, he will find that the rent was not regulated by the fair principle of the price of wheat, or of agricultural produce generally, nor indeed by any fair principle, but solely by the competition for land. The unfair competition for land forcing the rent up according as the population of the country increased. Thus from two millions in 1710, the population increased to two and a half millions in 1747; to three millions in 1757; to five millions in 1791; and to eight millions in 1841. And, as the fruits of that unfair competition, we find the monstrous accumulation of extortion of nine rents demanded in 1851, when the population is eight millions, for the one rent paid in 1710, when the population was two millions, and when wheat was double its present price. In all this we have a full illustration and proof of the soundness of Mr. Conner's\* celebrated argu-

<sup>•</sup> I would refer to Mr. Conner's numerous works upon the land question, for able and clear expositions of that most important subject in all its bearings. Mr. Conner's theory is as simple as it is self-evident

ment of the non-increase of land, as the root or origin of the rackrent system of Ireland; for, by the data given in the table in question, we find that while the population increased in 140 years from two millions to eight millions, the land of the country has remained a limited and fixed quantity, incapable of increase, the consequence has been, that land and farms, not increasing, have become scarce, as the population has increased fourfold, and the competitors for farms have multiplied; and this scarcity of farms has armed landlords with the rackrent system—putting into their hands the rackrent screw, which is the many bidding for every one farm, by the turning of which screw on the tenants, they are enabled to screw up the rents in 1851, with a population of eight millions, to nine times the amount it was in 1710, with a population of two millions, notwithstanding

and conclusive. He comprises the rackrent system in its two primary evils of exorbitancy of rent and insecurity of tenure; he traces these evils to the non-increase of land—the many competitors for every one farm to be let—and its consequent undue and unfair competition; and finally he points out a valuation for the first evil, and a perpetuity for the second, as the only effectual remedy. Mr. Conner's labours in this cause are almost without parallel. In 1822, he commenced those labours by the publication of a pamphlet entitled "A Letter to the People of Ireland on the disturbances." He has since that, for a period of twenty-eight years, devoted his time, his money, and his talents to the cause, and by the publication of expensive pamphlets, by public meetings, and by a continued series of letters in the papers, has sustained the tenants' cause, almost single handed and alone, down to last August, when the Tenant Conference unanimously adopted his plan of a valuation and a perpetuity. The following is a list of his works on the land question:—

- A Letter to the People of Ireland on the Disturbances,
   Speech against Rackrents,
- 3 True Political Economy of Ireland or Rackrent the one great cause of all her evils, with its remedy, 1835
- 4 The axe laid to the root of Irish oppression, 1840
- 5 The Prosecuted Speech delivered in proposing a petition to Parliament, in favour of a valuation and a perpetuity of his farm to the tenant, with introductory address on the nature and spirit of Toryism,

that the price of wheat was then more than double its present price.

Second head of proofs of exorbitancy of rent, drawn from the Ordnance Valuation—see page 13 of the present work.

It has been remarked in a preceding section (page 13), "that the Ordnance valuation will be found the only standard approaching to fairness to which the oppressed occupier of the soil has to make an appeal against the all-devouring evil of exorbitant rents." Although this valuation may very well have answered its professed object, which was merely to regulate by equalising the taxation on land, but not the rent; it was, when made, greatly above the fair rent, at least full 25 per cent; and since that valuation was made, owing to a variety of circumstances, which have since taken place, affecting land, and greatly reducing its value, land has

- 6 Letter to the Earl of Devon on the Rackrent system of Ireland, showing its cause, its evils, and its remedy, 1843
- 7 Two letters to the Times on the Rackrent oppression of Ireland, its source—its evils—and its remedy, 1846
- 8 Letter to the Tenantry of Ireland containing an exposition of the Rackrent system, and pointing out a valuation and a perpetuity as its only effective remedy,
  1850
- 9 A Catechism of valuation and perpetuity of tenure (a tract) 1850

Thus had Mr. Conner's sagacity discovered, nearly thirty years ago, that the land question was the great question of Ireland, with equal ability did he sound all the depths of that question: and with an industry, devotedness, perseverance, and disinterestedness never exceeded in any age or country, has he maintained down to the present day the sacred cause of justice to the oppressed tenantry of Ireland. In 1843, having by the fall of a life lost the greater part of his income, he was obliged to discontinue the public meetings—these having been for many years, got up, attended, and addressed solely at his expense. As the above list will show, he has continued his works to the present time, and has, at very great expense, given them extensive circulation in this country, in England and in Scotland. I would trust to that sense of justice in the breasts of Irishmen, that labours such as his, of such incalculable value to the peace and prosperity of this country, will not be allowed to remain unrequited by that country which he has served with such devoted zeal so long and so ably. As a mite of that national remuneration justly due to Mr. Conner, I will put down £50 as my hearty subscription.

fallen 25 per cent more; so that, as the Ordnance Valuation now stands, it is full 50 per cent above the fair rent-above such a rent as would allow tenants to live with decency and comfort, or give them the power of improving their present wretched condition. Some things favoured this valuation, at least in appearance. It pointed to a rule for the value of land—that by valuation—of a more fair and equitable character than that of the wild and reckless competition for land. That valuation was taken by the English acre, which being not much more than half the Irish acre, made the acreable rent appear moderate to the generality of persons. who did not take into account the great difference in the English and the Irish measurement. However, waiving these objections, and they are great, and many more which might be made to the Ordnance valuation—taking it as a standard of rent, I shall prove by it the great exorbitancy in the rent now demanded for Rossena.

First proof of exorbitancy of rent drawn from the Ordnance Valuation.—That while, according to that valuation, there is not one acre of first-class land on the farm, yet the rent demanded amounts to more than that of first class land, for the entire 299 acres!!!

Second proof of exorbitancy of rent, drawn from the Ordnance Valuation.—That while there are only about 156 English acres charged as high as 20s., the rent demanded would amount to £1 5s. 6d. per English acre, besides the additional taxation, for the entire 299 acres!!!

Third proof of exorbitancy of rent, drawn from the Ordnance Valuation.—That while 143 acres are charged variously at 15s. 6d., 14s. 6d., 13s. 6d., 12s., 9s. 9d., 9s. 8d., 5s. 6d., 3s. 6d., and 1s. 6d., making an average rent of about 11s. per acre for these 143 acres, the entire are charged by the rent demanded, as first class land!!!

Fourth proof of exorbitancy of rent, drawn from the Ordnance Valuation.—That while the above 143 acres are charged by the Ordnance Valuation at an average of 11s. per acre, they are, by the rent demanded, charged at 5s. 6d. an acre, above first class land!!!

#### SECTION VI.

Twelve afterclaps of grinding exaction, detailed from the agent's late letter.

It might, perhaps, be thought that the foregoing proofs of exorbitancy of rent, deduced historically from the several leases of Rossena, for the space of 140 years, as also from the Ordnance Valuation, would suffice as exhibiting an accumulation of grinding exaction almost exceeding the ordinary bounds of credibility, and yet such is the unmeasured iniquity of the rackrent system, that it does not permit us to stop at these eight proofs, but still obliges us to go on, and place over all these, as so many cap-stones to the building, no less than a dozen after-claps, amounting, when fairly valued, to more than the fee simple of the farm would now sell for.

These after-claps, as taken from the agent's letter of the 20th of November last, are as follows:—

First after-clap.—The rent of 35s., with the additional taxation, making in all 43s. per acre to be paid for the last eight months back to the 1st of May last, in place of the rent of 18s. 5d. legally due.

Second after-clap.—The Tenant to be bound to reside constantly on the farm. This one condition would put several times the amount of rent out of the tenant's pocket.

Third after-clap.—A suitable dwelling-house and offices to be built by the tenant.

Fourth after-clap.—The roofs to be slated, that the buildings may be the more valuable to the landlord, at the expiration of the lease, or when the tenant shall be evicted for non-payment of exorbitant rent.

Fifth after-clap.—The lands of the farm containing 299

English acres, to be thoroughly drained at the tenant's expense.

Sixth after-clap.—Not more than one-fourth of the land to be kept in tillage. This condition may be said almost to preclude the tenant from the use of the greater part of the farm, although paying an exorbitant rent for it; and this for no earthly purpose, except that the land should be in good heart at any time when the landlord might get into the occupation of it.

Seventh after-clap.—Not one acre of the land to be sublet.

Eighth after-clap.—All the timber now on the land, the whole of which was planted by the tenant and his family, and for which they have been paying rent for upwards of eighty years, must be the property of Lord Kenmare.

Ninth after-clap.—All timber planted on the land in future, shall not belong to the tenant who shall plant it, and who shall pay Lord Kenmare rent for the ground on which it shall grow, but shall be the property of Lord Kenmare.

Tenth after-clap.—All timber now on the lands, and all which shall be planted, although the property of Lord Kenmare, shall nevertheless be watched and preserved at the tenant's expense.

Eleventh after-clap.—All royalties, viz.: coal mines, limestone quaries, &c., to be the property of Lord Kenmare.

Twelfth after-clap.—All game found on the lands, with right of fishing and fowling on the premises, shall belong to Lord Kenmare.

Mr. Galwey having, by his late letter of November 20th, thus applied the rackrent screw with hydraulic pressure, in laying on these twelve afterclaps, with perfect naivete, adds, "These are the usual terms on which lands are let on the Kenmare estates"—fully confirming the truth of my motto, "In Ireland the mode of letting lands is as destructive a system of extortion as can be conceived."

I have now given my statement of facts, and a few reflections arising out of that statement will form a suitable conclusion to the present work. To every candid mind—to every mind not entirely steeled by landlord prejudices against the force of evidence and truth—the utter unfairness of the rackrent system, which has so long preyed upon the vitals of this country, will be most manifest from the accumulated proofs of that statement. Throughout that statement will be seen the working of the rackrent system, the unceasing cry of which is that of the horse leech, give, give, give; while the competition for land arising from the non-increase of land—the many bidding for every one farm—goads on the hapless cultivator of the soil to pledge the last grain, often more than that, as the hard and cruel condition on which that soil is to receive the salt sweat of his brow. "True," it may be said "you have demonstrated the unfairness of the competition for land-theoretically, by the argument of the nonincrease of land—the many bidders for every one farm; practically, by the two primary evils composing the rackrent system, exorbitancy of rent and insecurity of tenure, arising out of the non-increase of land, and the endless train of secondary evils, social and political, flowing, with all the certainty of cause and affect, from the teeming womb of these two primary But still, if Lord Kenmare shall, by force of the competition for land, obtain his terms, most exorbitant as they are, from another tenant, and the agent a handsome douceur into the bargain as a thirteeeth afterclap, what have you to say?" Why, I have to say that all this would not overthrow, but establish, the several positions laid down by me. The only difference will be, that another tenant, and not myself, will be oppressed and ruined. The new tenant, in that case, will become an unit among the many in that wide spread ruin and discontent which are found throughout the universal tenantry of Ireland. Instead of occupying his proper position in which industry would have its just reward, capital its

fair return, the labourer remunerative employment, the professional man, the tradesman, the manufacturer and the shop-keeper business and employment, the tenant himself becomes ruined in his circumstances, and by his torpedo touch chills and deadens prosperity through each section of our industrial population. But I will go a step further, and ask, will the tenant be anxious to maintain the peace of the country while he finds all its institutions leagued against him—all sustaining the arm of Lord Kenmare, and of his agent Mr. Galwey, in taking from him the pound of his flesh, nay his very heart's blood, pledged and covenanted for, as I have shown, under the torturing screw of the competition for land?

What shall be an effectual remedy for this our country's cruelest and sorest evil is our last and crowning considera-The answer to this momentous question will bring into brief epitome all the lines of the land question: namely, That as exorbitancy of rent and insecurity of tenure are the two great evils composing the rackrent system, and proceeding from the non-increase of land and its consequent unfair competition, so shall a fair valuation for the first evil, and aperpetuity for the second, be found the only full and secure protection to the tenantry of Ireland against the rackrent system. Although this remedy contains, in its very terms, the force and internal proof of so many self-evident propositions, yet I shall add, in their support, the authority of the most eminent writer on economical science of the present day, that of John Stuart Mill, Esq.\* In a letter to Mr. Conner, and given in one of Mr. C.'s late works on the subject, Mr. Mill goes on as follows to confirm each part of Mr. Conner's theory :-

"Your letter dated two months ago has from varions causes remained too long unanswered, and your present of the volume of

<sup>\*</sup>Author of "Principles of Political Economy," in 2 vols. 8vo. "Essays on some Unsettled Questions of Political Economy," in 1 vol. 8vo. "System of Logic," 2 vols. 8vo.

your collected writings unacknowledged. I was already acquainted with some, though not all, of your pamphlets, and had seen enough in them to convince me that you had found the true explanation of the poverty and non-improvement of the Irish tenantry. letting of the land by a virtual auction, to competitors much more numerous than the farms to be disposed of-whose numbers are constantly increasing, and who have no means of subsistence but by obtaining land on whatever terms, insures their giving up to the landlord the whole produce of the land, minus a bare subsistence, and putting themselves completely in his power by promising even more than that; and, as you have so well pointed out, it is impossible while this system lasts, that the people can derive benefit from any thing which would otherwise improve their condition; the tenant being a mere channel through which the benefit whatever it may be, is diverted into the pocket of the landlord. Your proposal of a valuation and a perpetuity is the only one that I am aware of which goes to the root of the evil."

I trust I shall be excused for not retiring from the home of my forefathers, where they lived respected for more than two centuries, without raising my voice, although feeble, against that unjust system which has torn me from that loved home. The emotions which arise in my breast, on taking a last look at the hearth around which my childhood played, have been felt by multitudes in this land of misrule and oppression, whose last earthly hope expired on their eviction from their farms, and whose only refuge was the poorhouse, the grave, or the shores of foreign and barbarous lands. It is a consolation, although a melancholy one, to sympathize with them, to mingle my tears with their's, and to plead our mutual wrongs, before heaven and earth, against the ruthless rackrent oppression of Ireland.

### APPENDIX.

Kilkenny, 20th November, 1950.

Sir.

Enclosed are receipts for the rents of Rossena and Keegan's Ballinagall; paid by your remittances in half notes, they are accompanied by postage stamps, value ten pence, being the over payment.

In reply to your letter of the 18th Instant, requiring to know the terms on which Rossena is to be let, I beg to state that the rent is to be 35 shillings an acre, to commence and be computed from the first of May last.—The tenant to reside on the lands; a suitable House and Offices for farm purposes to be built, the roofs to be slated. The lands to be thoroughly drained, and not more than one fourth of them to be at any time in tillage. Not an acre of the lands to be sublet.—The Timber now growing, and which hereafter may be planted, to be the property of Lord Kenmare, and to be preserved by the tenant. All Royalties to be reserved, as well as of game, with a right of fishing and fowling on the premises. These are the usual terms on which lands are let on the Kenmare Estates.

I am,

Sir.

Your obedient Servant, CHRISTOPHER GALWEY

GEORGE COOKE, Esq. DUBLIS.

# THE "LAND QUESTION" SOLVED:

BEING PART OF A PLAN

# FOR MAKING IRELAND A RICH AND PROSPEROUS COUNTRY.

IN A SERIES OF LETTERS TO A LOCAL JOURNAL.

By JAMES LAMBERT.

DUBLIN:
GEORGE HERBERT, 117 GRAFTON STREET.
AND ALL BOOKSELLERS.

1869.

Price One Shilling.



WICKLOW:
PRINTED AT THE NEWS-LETTER OFFICE,
BY W. M'PHAIL,

#### PREFACE.

THE following Letters have—with the exception of some corrections and improvements—already appeared in the columns of a local paper [THE WICKLOW NEWS-LETTER], and have been received throughout this county [Wicklow] by all denominations with marked satisfaction and approval.

They contain a "programme" for making Ireland a rich and prosperous country, in which I have endeavoured to give a solution to the great problem of the day—the "Land Question"—that is safe, sound, and constitutional, and which I will venture to say will satisfy the tenantry of the kingdom, and ought to satisfy the landlords.

My plan is extremely simple and practical, and preserves a happy mean between the two extremes, of either taking too much from the landlord or doing too little for the tenant. It simply supplies a wholesome and efficacious remedy for the evil complained of, while it at the same time maintains the just rights of the three great parties concerned, namely—the landlords, the tenants, and the people.

It will be seen that I deal with several other subjects besides the "Land;" and in submitting the whole to the opinion of the Press and the general public, I only ask that a fair, candid, and impartial judgment shall be pronounced.

#### J. LAMBERT.

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# THE WAY TO MAKE IRELAND A RICH AND PROSPEROUS COUNTRY.

### THE LAND QUESTION.

#### LETTER No. I.

#### THE OWNERSHIP OF THE LAND.

As a good deal has been said about the ownership he land, from time to time, within the last few years, hose who have either spoken or written on the "land tion," will you kindly allow me space in your valuable rans, while I try to give a clearer elucidation of the pership" than any I have yet seen. In doing so I, first of all, premise that I have, I may say, nothing to with land, and I therefore write in a perfectly, disinterested, and, if I may be allowed the word, osophic spirit.

hold then that there is a five-fold ownership of the , viz.:—first, The Almighty God, the maker of Heaven Earth, is the absolute owner—the great allodial Lord he Soil—He it is who created it, and He alone can do it whatsoever pleaseth Him—He then is the owner he first and grand sense of the word; second, The is the owner—it owns the land as the agent of the ighty, in trust for the good of the nation at large; I, The landed proprietor, or, as we shall call him, "landlord," is the owner: he owns it under the au-

thority of the State, as its agent, and it is bound to protect him in his just rights; as the State, however, holds the land under God for the good of the nation, so the landlord, as the agent of the State, holds it also for the good of the community at large; fourth, The tenant owns the land, as the agent of the landlord, for the good of the entire population of the country (including of course his own good); fifth, and last, The people own the land. The entire population of any country own the land of that country in this sense, that they have a right to live on the land and be fed by its fields. Not, of course, to get their food for nothing, but they have a natural right to the fruits of the earth on such terms as the State (which is supposed to deal fairly by all parties) shall determine.

Now these five owners have respectively "their duties as well as their rights," and let us, in the next place, see what these duties are.

First then, the Almighty as the great absolute owner, has (with all due reverence be it spoken) His duty to perform towards the land; and He mercifully and graciously fulfils this duty, by giving "the sunshine and the showers," "the early and the latter rain," to fructify the soil, so that it may "bring forth," and yield plenteously, to reward the labours of the husbandman. This then is God's duty, which He alone can fulfil, and He does fulfil it. Second, What is the duty of the State? I take it to be this—to do everything in its power, by wise and good legislation, to secure to the community at large the greatest advantage. It is the clear duty of the State, for instance, to see that the soil is properly cultivated for the good of the "commonwealth," and to remove anything and everything that operates as a let, hindrance, or impediment to this grand object. The State is to know no party, so far as the land is concerned, but to held the balance fairly between all parties, and only to think of and consider the

entire population, and what is best adapted to promote its interest and wellbeing, as a whole. This appears to me to be the honest duty of the State. Third, What is the duty of the landlord? It is this, to cultivate the land in his mossession (as the agent of the State) for the good of the entire community (his own welfare being included), or, if he does not wish to perform this duty himself, to let it out in portions to others (as his agents) for this purpose. According to the laws of "political economy" it does not matter who cultivates the land, so that it is cultivated; because this is all that the people at large are interested in. It is then the bounden duty of the owner of the land to cultivate it himself, or have it done by others, and it is the duty of the State to make it be done For example, suppose Lord So-and-so took it into his head, from mere caprice say, to let ten thousand of his broad acres run to waste not either farming it himself or allowing any one else to do it for him-this act of "my lord" would, according to the sound laws of political economy, constitute a crime against society, and it would then be the right and the duty of the State, as the protector of the interests of society, to take "forcible possession" of this land and cause it to be cultivated for the good of the public. Again, political economy recognizes the produce of the soil as the chief wealth of any nation. Everything else, with the exception of the clothes we wear, the houses we live in, and a few other necessaries, is only more or less a "luxury"—that is, a thing which can be done without. Food alone constitutes the first idea of real, solid property, because it is absolutely necessary for man's sustenance—that is to say, for his life and existence. Money is only really valuable as the representative of food, because there would be no use in it if there was no food to purchase with it, as people could not "The King himeat chairs, and tables, and feather beds. self." says the wise man, "is fed by the field." When

therefore poor Sancho asked his master, with characteristic eagerness, if the "island" which he promised him for his faithful services was "anything he could eat," he was not far astray in his estimate of true property; for he was only giving simple and unsophisticated expression to one of the fundamental principles of political economy. If then the produce of the soil constitutes the genuine wealth of a nation, the duty of the State and the duty of the landlord become the more apparent—the one to enforce, and the other to execute. Fourth, the duty of the tenant (as the agent of the landlord) is to use his energies in the proper culture of the land, so as to extract from the soil a maximum quantity of produce. In performing this duty he is, of course, serving himself as well as the general public, but whether he considers his own interest or not, the "public good" requires this of him, because it is for the "public good" that the greatest quantity that can be obtained shall be taken out of the soil. I need hardly observe that it is his duty also to pay his rent fairly and honorably, and perform his contract faithfully, both towards the landlord and the community. He performs it towards the former by paying his rent and doing no mischief, and towards the latter by industry and attention to his farm; because the agreement between landlord and tenant is one in which these two parties are not alone concerned, but also the public at large, who are interested in the proper cultivation of the land, so as that there may be the greatest available quantity of produce for sale in the market—a circumstance which will cheapen its value, and consequently render the money in hand the "representative" of a greater quantity than it otherwise would be: therefore, no idle or lazy tenant should be allowed to remain in possession of his land. It should (in the interest of society) be taken from him, and given to another that is better than he, and who will more worthily fulfil the duty which he owes to the public. And now, in the fifth and last place, what is the duty of the people? Well then, it appears to be this—to see that there is "fair play" between landlord and tenant, and that both parties act equitably towards each other—always assuming that the state of the law is such as appears to them to be fair and reasonable, and calculated, if carried out honestly, to promote the public good. The "people"—that is to say, the shopkeeping, artizan, and labouring classes, etc., are supposed to be perfectly neutral as regards landlord and tenant; or, if they are to lean to one side more than the other, I would say that they should incline more to the tenant, as the State may be supposed to be more jealous of the interest of the landlord.

Now, I believe that I have pretty fairly stated the "ownership" of the land in its five-fold character, and have also pointed out the proper duties appertaining to each owner; and I hope that it will be clearly seen that there is no "communism," or revolutionism, or robbery, or wrong of any kind, contemplated in all this, but only a proper adjustment of all "rights" and "duties" concerned. In fact, the true way to prevent revolution and plunder is, for all parties to perceive and own their proper duties and fulfil them, then will all true rights be not only respected, but strengthened and consolidated.

"Order is heaven's first law," by which God maintains the equilibrium of the universe and regulates the motions of the rolling worlds in the vast regions of space; and this "order," or, as it may be defined, "healthy action and reaction," or "a harmonious system of counterpoises," in the social sense always conduces to peace and happiness, and when every man does his duty in his own proper sphere this will be preserved, while contrariety of action will produce disorder, which may end in convulsion and rebellion. And it is just because the foregoing truths are not seen and acted on, that there is so much confusion and

injustice respecting the "land question." What is really wanting towards a fair settlement of this unfortunate business is, that all parties—the State, the landlord, the tenant, and the people—should, by their representatives, come all fairly together, and ascertain their proper duties and interests, and then indeed would the ground be cleared for equitable and beneficial legislation.

#### LETTER No. II.

THE "OWNERSHIP OF THE LAND" FURTHER CONSIDERED.

SIR,—Having endeavoured in my former letter to establish what I conceive to be the true "theory" of the "ownership" of the land, about which there would appear to exist so much difference of opinion, I think it well to follow up the subject a little further, before we come to speak of any plan for the settlement of the "land question." However, it must be remembered that there are many other ways by which this country could be benefitted, as well as by the settlement of the land difficulty, and I shall, in the course of this series of letters, point out several of them. doubt, considering the agricultural character of Ireland, the "land question," in point of importance, takes precedence of all others, and it should be the first thing settled; but I do not see why the other measures to which I allude should not afterwards be considered also. before undertaking to propose a remedy for the present state of things as regards the "land," it occurred to me that it was necessary, first of all, to state the case of the "ownership" clearly and intelligibly, and at the same time as forcibly and convincingly as possible, so as to dispel illusions, remove mistaken notions, and carry conviction to every mind; and I am happy to learn that, judging from

the general assent which has been accorded to my former letter. my humble effort has not been altogether in As long, for instance, as any man entertains the mistaken notion—(to say the least of it)—that he can do as he likes with his land, it is not likely that he will be effectually wrought upon by argument or remonstrance to move in any way but such as he considers promotive of his own interest alone, without any regard whatever to the general good of the country. The first thing to be done then in such a case is, to show this man very plainly and clearly that he is totally mistaken in imagining that he has as good a right to do as he likes with his land as he has to do with his watch, his sofa, or his carriage; he must be shown that there is an infinite difference in these things—that the land sustains a character and occupies a position that neither watches, or sofas, or carriages can possibly lay claim to; that the land is in fact the "life" of a Nation, what "luxuries" never can be; and that for the matter of that, all the chairs, and tables, and cushions, and curtains, and clocks, and watches, and cars, and carriages, and sofas, and feather beds in the kingdom might be thrown into the sea, and if the glorious "land" teemed with abundance of food for the people, all would be right still! As for these things, they could all soon be replaced by giving in exchange for them some of the superabundant "representative" of food—that is to say, a thing called "money." And, in point of fact, this imaginary calamity would really not be such a very unfortunate occurrence after all, because it would be the means of distributing amongst the makers of these things large quantities of the superabundant food of the kingdom in the shape of its "representative"-money. There would be no fear of any one dying of starvation if the land yielded plenty, though all the "luxuries" in it were destroyed; but there would be every fear, and every certainty, that a dearth of

food would cause deaths by thousands—even though every "noble lord's" mansion, and every gentleman's house in the kingdom were stocked with the choicest furniture and the rarest luxuries. It would indeed appear that the "State" itself—or its mouthpiece, the government—really stands in need of a little enlightenment on this subject too; and I dare say that many of the tenant farmers will also be somewhat astonished to hear, probably for the first time, that they have a duty to fulfil towards the town populations (as well as towards themselves and their families) by working hard to produce food for them, while they are at other work, namely, making "necessaries" and "luxuries" for the "well-to-do" and the "rich." For both rich and poor must exchange the "representative" of food for the food itself, and the farmer must supply it, and it is his duty to have it forthcoming and ready for the "people," who will give to him for it—that is, for the surplus quantity which he does not require for himself-what they cannot eat, but what will be as good to him as the food itself. may here remark that the farmers are bound to supply food to the people, and not to keep it back for exorbitant. prices, by a higher authority than the laws of political economy, even God's word itself, for it is written, "He that withholdeth his corn the people shall curse him, but blessing shall be upon the head of him that selleth it" (Prov. xi., 26).

The first demand on money is "food;" the second, "necessaries;" and the third and last, "luxuries;" and it is all right and for the good of society that "necessaries" and "luxuries" should be made and exchanged for money, as this keeps up a good and wholesome circulation of what I may call, so far as "mortal life" is concerned, the "one thing needful." And, last of all, the "people" may not have been aware of their exact "right" and interest in the land; and I am sure that they will not make use of

the information which they have derived from my "theory" to the injury of any of the other owners. That the people at large have a certain claim on the land, that is, to the fruits of the Earth, appears plainly enough from many passages of Holy Scripture. The one I have just quoted is to the point, and many more might be given. For instance, during the journeyings of the children of Israel to the "promised land," Moses constantly cheers the entire "people" with the gladdening intelligence that they were going to possess a rich and fertile land that would yield plenty, and where they would all be filled and satisfied; and he speaks to all the "people," evidently intending that the "land" and its good things should be for all, and that all should be "fed by its fields." One or two passages will suffice:--"For the Lord thy God bringeth thee into a good land, a land of brooks of water, of fountains and depths, that spring out of valleys and hills; a land of wheat and barley, and vines, and fig trees, and pomegranates; a land of oil olive and honey; a land wherein thou shalt eat bread without scarceness, thou shalt not lack anything in it. When thou has eaten and art full, then thou shalt bless the Lord thy God for the good land which He hath given thee" (Deut. viii., 7, 8, 9, 10). "And the land shall yield her fruit, and ye shall eat your fill, and dwell therein in safety" (Levit. xxv., 19). We have it here in these passages plainly set forth that God causes the land of any country to "yield its fruit," in order that the "people" of that country shall be fed, therefore the people of every country have a natural right. under certain conditions, to the fruits of the earth—that is, they have a "right to the land"—that is, they "own the land" in the sense I mentioned in my former letter, and which is borne out, not only by political economy but by God's word, which is the truest of all economy. For although these two passages may be said to relate to the

Jews only, a principle is stated which is unquestionably of universal application. Another passage is to the same effect, namely-"He causeth the grass to grow for the cattle, and herb for the service of man, that he may bring forth food out of the earth" (Ps. civ., 14). Again, "As for the Earth," says Job, "out of it cometh bread" (Job xxviii., 5). Can there be any doubt about the obvious meaning of these passages, and am I not right therefore in laving it down that "the land is the life?" And further, I would ask is not this doctrine, of the right of the people to the fruits of the earth, acknowledged by the State in the principle of the Poor Law? And is it not likewise recognized by the Church of the State in this petition of the Litany-"That it may please Thee to give and preserve to our use the kindly fruits of the earth, so as in due time we Tthe population at large] may enjoy them:" as also in the special prayers "for rain," "for fair weather," and "in the time of dearth and famine?" where the expressions "that we [the people at large] may receive the fruits of the earth," and "the scarcity and dearth which we [the people at large | do now most justly suffer for our iniquity, may through Thy goodness be mercifully turned into cheapness and plenty," occur.

As God, who in ages past commanded this old Island to rise above the ocean and rest upon its bosom, therefore gave Ireland to the Irish as truly as he gave Canaan to the Jews, for the beneficent purpose that its soil should be cultivated to the full for the support of its people, and as the State is God's agent or steward to fulfil His gracious design, therefore it is the duty of the State to have it done. But the landlords are the stewards of the State, therefore it is their duty to do it; but the tenants are the stewards of the landlords, therefore it is their duty to do it; but the tenants are not doing it, therefore it is their stewards of the "people" to complain, and demand an explanation of the people of the complain, and demand an explanation of the stewards of the stewards of the complain, and demand an explanation of the stewards of the stewards of the stewards of the stewards of the landlords, therefore it is the stewards of the stew

nation, as it is to their prejudice that the land is not as properly cultivated as it might. Well, the tenant farmers are asked the reason for this state of things, and their statement is to the following effect:-"We are quite willing to admit that the land is not cultivated nearly as well as it might, nay, we frankly confess that we could readily make it vield twice as much as it does; but we have no heart to do so, for the nature of the tenure by which large numbers of us hold our land operates against us in this way—that if we enrich our farms by our own unwearied industry, and the outlay of our money, then our landlords raise our rents, which is practically imposing a penalty on us for our improvements. We are free to acknowledge our obligations to society, and if society will only put us in a state of security, that we shall not be fined for what we do, we shall soon strip off our coats, and work with a will, and what is more, we shall draw our money-which amounts to millions—out of the banks, and invest it in the land; and that is all we can say."

This then being the state of the case at present in Ireland, under the system of tenancy at will, a remedy should at once be applied, as a measure of right and justice to the nation—that is, to the population at large.

However, I shall close for the present, and in my next letter shall try to point out what the remedy should be.

### LETTER No. III.

SOLUTION OF THE LAND QUESTION.

SIR,—I now propose to produce my plan for the solution of the great problem respecting

THE LAND.

I shall deal with this vexed question then on the as-

sumed truth of my own theory. However, before I proceed to give my solution of this admitted difficulty by stating what ought to be done, I think that it would be well, first of all, to say what ought *not* to be done.

Well then, I think that any system based on "pains and penalties" against landlords for not doing a certain thing, or on what would partake of the nature of "bribes" or "rewards" for doing it, would not be right. Justice looks not to the "right hand or the left," but goes straight a-head, and scorns the thought of cowardly expediency. any scheme that would be perplexing or very ceremonious, or in any way roundabout in itself would not do. plain men want is, something that they can perfectly understand, that is simple, and that comes to the point at once. Now it will be borne in mind, that I have already laid it down that the State is bound to consider the interests of the entire population, and that the landlords are its agents for this purpose. And the evil complained of being one that affects the community at large, it is the duty of the State to apply the remedy. What I would propose then, is-

#### STATE OFFICERS.

Let the Assistant-Barrister or Chairman of each county be appointed the officer of the State, to do justice as between landlord and tenant, as well as towards the country at large, and with the view of carrying out the policy of the State, namely, to place the land of this kingdom, as far as practicable or expedient, and with an honest regard to all interests, under lease.

#### NOTICES.

Let every tenant-at-will, who wishes for a lease and cannot obtain one from his landlord, serve a notice on the Clerk of the Peace to the effect that he desires to obtain a

"State lease," and let a similar notice be served on the landlord or his agent. And let the same rule apply in the cases of tenants under existing leases—as they expire.

#### LEASES.

At the ensuing sessions let every such applicant get a "State lease," as a matter of right, for sixty-one years, unless where the landlord—in any particular case—is able to shew (in the opinion of the Chairman) good and sufficient reasons why a "State lease" ought not to issue, in which case let the Chairman by all means refuse it, or give a lease for such shorter term as the circumstances of the case might require.

[Note.—(1).—This latter part will provide for the exception of dairy farms, certain cases of "middlemen" who have themselves but a short "term" of the farms they have let, and land let during minorities, etc.]

[Note.—(2).—At first there might be an extraordinary sessions held in the usual places in each county, for the special purpose of carrying out the provisions of the act; but after the weighty part of the work was got through, the ordinary general Quarter Sessions would do.]

[Note.—(3).—If it be said that it would have been better to have provided for a new general valuation of all farms at present held at will, and that afterwards the leases could be got in the way I have pointed out—the tenants in the meantime being deemed to be under lease, so as to secure them in possession—I have only to say that this plan, however fair it may at first sight appear, would not in many instances please either landlord or tenant, and it would incur a great deal of trouble and expense, and disturb all existing arrangements. It may be fairly assumed, at all events, that in nineteen cases out of twenty the tenants would be satisfied to take out their leases at their present rents, and that the landlords would agree to

those rents, or else they would not have allowed them to continue.]

Let such lease contain the usual fair and reasonable covenants, to suit generally, as between landlord and tenant; but in particular cases, let the Chairman have power to add one or more special covenants to suit special circumstances, or alter or modify any one or more of the State covenants, as he shall deem necessary.

Let the condition of such lease be that all IMPROVEMENTS, whether in land, buildings, etc., shall REVERT TO THE LAND-LORD at its expiration.

Let each lease be signed by the Chairman, and countersigned by the Clerk of the Peace, and be by him duly registered.

Let the stamp duty on such leases be on a scale ranging, say, from 2s. 6d. to £1, according to the amount of rent; and let the charge for preparing each lease be on a similar scale.

#### RENT.

Let "present rent" be the general rule for each lease, but let the Barrister have ample discretionary powers to raise or lower the rent in certain extreme cases, and, with this view, to hear evidence on the part of the land-lord or tenant, and determine accordingly to the best of his judgment; or let him empannel a jury to fix the rent in any case in which he may deem it expedient to do so.

[Note.—(1).—I think that by this plan substantial justice (and that is all that can be attained) will be done to both parties.]

[Note.—(2).—If it be asked why Griffith's valuation should not be made a basis for determining the rent, I answer that, from the evidence which has been given on the General Valuation Committee of the House of Com-

mons, as well as from private information—all going to show the great inequalities in this valuation—I have come to the conclusion that it would only mislead and perplex, and that the safest way is to leave this matter, as well as the leases, in the hands of the Chairman.

#### PRESERVATION OF LAND.

In order to provide against injury being done to the land on approaching the expiration of each lease, let power be given to the landlord and tenant, at any time within *seven* years of the termination of the lease, to cancel it, and take out a new one for another period of sixty-one years, but in case they should not agree as to the rent, etc., then, at the expiration of the lease, let the Barrister fix the rent for the new lease under the powers given to him above.

#### SUB-LETTING.

Sub-letting to be declared illegal, except in very particular cases (to be determined by the Chairman at sessions) as, for instance, in the case of farmers' orphans during their minority, or in the case of farm laborers, who might be allowed to get small plots of ground sub-let to them—attached to their dwellings.

[Note.—This provision against sub-letting might of course be one of the general covenants of the lease.]

#### DIVISION OF FARMS.

No division of a farm to be allowed during the lease, except with the written consent of the landlord.

[Note.—The division of farms into small portions is a great evil, as it only injures the country by producing a pauper population: the present farms should therefore not be allowed to be cut up into fragments, which would not be able to support a family comfortably, even

if they were rent free. However, in the case of very large farms, it might be well to leave it optional with the land-lord to consent to a division or not, as it may safely be presumed that he would not use the privilege if it were likely to injure his property.]

#### TENANT RIGHT.

A tenant's interest in his lease to be considered good and lawful property, and consequently saleable at any time to any other person.

#### PROTECTION TO PRESENT TENANTS.

In order to save the present tenants from any unfair advantage being taken of them, let there be a special clause in their favor, to the effect that all legal proceedings on ejectments or notices to quit (except for non-payment of rent), that may have been taken during the progress of the bill through Parliament, shall be deemed null and void.

#### APPEAL.

As it will be necessary to give a large margin of discretionary power to the Chairman, it is expedient that there should be the right of appeal from him to the Judge of Assize, either by landlord or tenant; but every such case should be certified by the Barrister (or Chairman) as a fit and proper case for an appeal, so as to prevent the right from being abused.

The above is an outline of the plan which I propose for the settlement of the land question; and all I have to say is, that if my theory of the "ownership" be right, the plan must be substantially right also, as it is the logical sequence of it. The matter stands thus—the mischief done to Ireland arises from the fact that the agents of the State, under the vicious system of tenancy-at-will, do that which they ought not to do; and the State itself, instead of remedying the evil by employing the powers which belong to it, has hitherto failed to do so. Now then what I just do is this-I simply make the State perform its proper function, by nicely and quietly interposing between the landlord and the tenant, and doing that for the good of the nation at large which its agents are not doing. And there is no violence done to any just right of the landlord by this plan, because the officer of the State will only hold the balance fairly between all parties, by giving a lease in every case where justice to the tenant and the interests of the nation require it. But if the "just" rights of the landlords are to be carefully conserved, so also ought the "just" rights of the tenants and the population at large; but they are violated at present, and my plan simply makes all harmonious, by preserving the rights of all.

If it be asked what I mean by the "just rights" of the landlord, I answer at once—those rights which are consistent with the welfare of the kingdom, because no man can have a constitutional right to do wrong to his country. It is the constitutional as well as patriotic duty of every man to promote public progress, and not to retard it. But I have already shewn (in my second letter) that the land is essentially different from all other property, as God intends that the population of every country shall be fed by it, and therefore no man can possibly lay absolute claim to it. It is not in the nature of things that he For instance, the difference between the procould. perty in 50,000 acres of land, and 50,000 hides of leather is this—that as the lives of the people depend upon the food which comes out of the land, it is therefore to be deemed (so to speak) sacred property, given by the Almighty for this very purpose, it cannot therefore be in the power of any man to destroy it, because this would be a capital

crime against society at large; but in the case of the leather, it might be thrown into the sea and one life would not be lost in consequence; the only injury done would be that possibly some of the community might have to go barefoot, and this they could do if put to it, as boots and shoes are really after all only "luxuries." In fact, the land cannot be destroyed by any individual. because God gave it for the production of food for the people, of all ranks and degrees, and it is therefore (as I have pointed out already in my former letter) the "life" of a nation; but leather and every other luxury might be destroyed and yet no life be sacrificed. And if no man dare destroy the land, neither can any man rightly or lawfully prevent its proper cultivation for the good of the general community. I need hardly remark further that this rule is of universal application, and that it ought to be acted on by every Government that pretends to be the conservator and caretaker of the rights of society. therefore firmly maintain-against all opposition-that all property in the land must only be relative and cannot be absolute, and it can only be held as property consistently with the good of the "commonwealth."

And see how easily the remedy can be applied. Instead of creating a new department with a large staff of officials, and placing the entire business in the hands of some one individual as its "head," the State has its machinery just at hand, and the very machinery too which is exactly fitted to the purpose. And instead of giving all the work to one man it divides it amongst upwards of thirty men, ready placed and properly adapted for its due and skilful execution. It will be seen at once, too, that, by this plan the settlement of this grand difficulty is reduced to the veriest minimum of trouble or annoyance, as by it a man can obtain his lease with less than half the trouble which it would take to look about a spirit license.

Again, all room for quarrelling or disagreement between landlord and tenant about compensation for this, that, or the other improvement is by this scheme completely done away with—the lease settling the matter at once. It is clear that any plan that did not settle this point definitively must be necessarily deficient. However, all is right in this respect now, as the "State lease" is long enough to secure, by proper industry, an adequate return for all improvements made.

I shall now quote a scrap or two of Irish history to shew that the present system of insecurity of tenure in Ireland is (as Mr. Butt has established unanswerably) the result of the violation of a compact made between the British Government and the original planters, from whom the modern landlords derive their titles—a compact always implied and formally expressed in the case of the most important territorial distribution ever made in Ireland, namely, the "Plantation of Ulster." For instance, in the "orders and conditions to be observed by the 'undertakers' upon the distribution and plantation of the escheated [forfeited] lands in Ulster," printed in 1618, it is declared that his Majesty "is graciously pleased to distribute the said lands to such of his subjects, as well of Great Britain as of Ireland, as being of merit and ability shall seek the same with a mind not only to benefit themselves, but do service to the Crown and commonwealth," [shewing, as I have pointed out, that the good of the commonwealth is to be regarded]. The document proceeds thus:-"The persons of the undertakers shall be of three sorts, first, English or Scotch, as well servitors as others, who are to plant their portions with English or inland Scotch inhabitants; second, servitors in the kingdom of Ireland, who may take more Irish, English, or inland Scottish tenants at their choice; third, NATIVES OF IRELAND, WHO ARE TO BE FREEHOLDERS." Of the English and Scotch undertakers, it is determined that "THE SAID UNDERTAKERS SHALL NOT DEMISE ANY PART OF THEIR LANDS AT WILL ONLY, but shall make CERTAIN ESTATES FOR YEARS, FOR LIFE, IN TAIL, OR IN FEE SIMPLE."

Of the Irish servitors—[that is, grantees who had been in the service of the Crown ]—it is declared that "they shall make certain ESTATES TO THEIR TENANTS and at certain rents, and FORBEAR IRISH EXACTIONS." And of the Irish natives, "they shall make certain estates for lives or YEARS TO THEIR UNDERTENANTS, AND SHALL TAKE NO IRISH EXACTIONS." "In this manner," says Carte, in his Life of Ormonde, "and under these regulations, were the escheated lands in Ulster disposed of to a hundred and four English and Scotch undertakers, fifty-six servitors, and two hundred and eighty-six natives, all of whom gave bond to the Government for performance of covenants, for the better assurance whereof the King required a regular account to be sent him from the State, of the progress made by each undertaker on the plantation." Carte also expressly says that the grantees were not to let their lands for a less term than TWENTY-ONE YEARS, when they did not let them for THREE LIVES, so that we have here SECURITY OF TENURE insisted upon by the State as a fixed rule or principle not to be departed from.

But then it may be said, "Yes, but after all this only relates to one portion of Ireland—Ulster." Not so, indeed, for King James's grants were not confined to Ulster; they were made largely in Longford, Westmeath, Kildare, and even in our own county of Wicklow. And, what is more, we have the authority of Sir John Davis (the then Attorney-General for Ireland) for the fact that the estates, both in these counties and in Munster, were held on the same condition of giving SECURITY OF TENURE to the TENANTS. And the reasons for doing so are given, namely, "Whereby the hearts of the people are settled not only to live in

peace, but raised and encouraged to build, to plant, to give better education to their children, and to improve the commodities of their lands, whereby the yearly value is already increased DOUBLE of that it was these few years, and is like to rise higher till it amounts to the price of land in England." Does not this extract speak well for the good effects of SECURITY, and, I may add, for the industry of the Irish tenants?

Again, to come down even to a later period, the subsequent grants of Cromwell were admittedly framed on the model of the Ulster plantation, that is, on the principle of SECURITY OF TENURE. In short, it may be safely asserted (with Mr. Butt) that almost the whole island is now held under grants, which were in fact TRUSTS FOR PUBLIC PURPOSES, the great object in view being to make an independent and contented population. The undertakers were expressly bound not to establish the precarious tenure which has now become the rule, but to make FARMS IN FEE AND "ESTATES" FOR THEIR TENANTS.

Is not this proving, even from the history of English rule in this kingdom, that the State originally regarded the landlords as its agents, and that they could not, and dare not, do as they liked with the land; but that they should do that which was calculated to improve it in value and productive capacity, so that the result would redound to the good of the "commonwealth."

In conclusion, I have only to say, that in my next letter I shall deal with the question of Absenteeism.

Wicklow, March 5, 1869,

# LETTER No. IV.

SIR,—Having disposed of the Land Question, I now come to the consideration of the other subjects to which I alluded (in No II.), and the first which I shall notice is Absenteeism.

Absenteeism is one of the chief causes of Ireland's poverty. It is an evil of long standing, and injures the country in a two-fold point of view-namely, in a positive and negative manner. It injures it positively by withdrawing from it a large amount of money annually, which ought to be spent in the kingdom; for as money is the commercial life-blood of a nation, the more of it that can be kept in the country the better, and, conversely, the less of it that is taken out of it the better. Consequently where there is a perpetual outflow of this "commercial blood" in any country, that country must be commercially weakened, just as any man in robust health would be physically weakened, who should be subjected to the constant operation of bleeding. Again, Absenteeism injures this country negatively in this way—that the good which the landed proprietors would do (or at all events which they ought to do) on their several properties, by staying at home and attending to the wants and interests of their tenantry (independently altogether of the mere outlay of their money) is not done, so that it operates as a And here I may appositely quote the double evil. words of Dr. Ball, in his recent speech on the Church Question, where, in pointing out the real evils of Ireland, he says, "One of the great calamities of Ireland is the amount of Absenteeism by which the social influence of large proprietors is withdrawn, and the incomes of those proprietors spent elsewhere." Surely it is not possible but that the Absentee landlord must feel in his conscience, from time to time, that he is not doing his duty to this country by remaining out of it, and spending the money elsewhere which ought to be spent in it. suppose I may safely assume that the amount of the vearly Absentee drain out of Ireland is from three to

four millie (some say even more), and this large sum must weal: the country very much.

Now, if the "noble lords" who spend this money would only apply to themselves the rule which they prescribe to their tenants—namely, to "consume all hav and straw on the premises," what a great matter it would be; but the mischief is, that while they insist upon obedience to this rule on the part of the tenantry, they themselves consume thousands of tons of "hay and straw," and thousands upon thousands of barrels of wheat, barley, oats, potatoes, etc., etc.. on strange premises! Is not this a crying inconsistency! Let me just give one instance of what takes place in Ireland, the scene being laid in this county. shall suppose then that each half-year's rent of the estate to which I allude, instead of being paid in money, is paid in kind-by the fruits of the Earth. Well then, we shall say there is carted into this town each half-year, for shipment to England, the following:-

> 3,000 barrels of wheat, 5,000 barrels of barley, 5,000 barrels of oats, 6,000 barrels of potatoes, 1,000 tons of mangolds, 1,000 tons of turnips, 2,000 tons of hay, 2,000 tons of straw.

The value of all this produce, at the average prices respectively, is about £26,000, being, as far as I can ascertain, about one half-year's rent; and it would take eighty vessels of 100 tons each (being about the average size of those trading to and from this town) to transport it. I merely adduce this one case in illustration of what in effect takes place under the Absentee system throughout Ireland.

Well, now for the remedy. I hold then (assuming the

truth of the theory I have laid down) that it is the duty of the State, as the protector of the interests of society at large, to put a stop to this evil, either by fair means or by The State ought to address the landlords in this way:--"My lords, Absenteeism is a crime against any country where it is practised, and it is practised by you to an extent that seriously injures Ireland. Now, my lords, you are to consider that property carries with it its 'duties as well as its rights,' and one of the great duties appertaining to it is RESIDENCE. The fact is, each of vou ought to regard yourself as a sovereign, and your estate a little kingdom, and you ought to remain upon it, and spend your money, and do all the good you could amongst your tenant-subjects; and it is my duty, as the sovereignin-chief, to see that this shall be done. I therefore require such of you as have your properties wholly in Ireland to remain on them for nine months out of the twelve, and such of you as have property elsewhere must remain in Ireland for a period each year proportionate to the property you possess there." This would be a fair arrangement, as there might be three months allowed for the purposes of travel etc., so as to be liberal to the great, at the same time that an effectual stop was put to the mischief. I am of opinion that it would be a constitutional exercise of authority, on the part of the State, to compel Irish Absentee landlords either to live at home on their properties or sell them to those who would; because it is not the right of any man to injure his country, but the Absentees do injure it, therefore it is the duty of the State, as the guardian of society, to prevent them. as the Absentees are the stewards of the State for the proper discharge of all duties connected with the properties which they hold from the State, they can be required by the State to fulfil those duties or give up their stewardship. But one of the great duties appertaining to property,

in a national point of view, is residence, therefore it is the right and the duty of the State to make this condition be fulfilled, or compel the defaulter to part with his property to one who will fulfil it. And I would even go farther and say that the State might actually declare the property forfeited to the Crown for disobedience in this respect on the part of the holder. Now I would just ask this question-Why should respectable farmers be compelled, under a severe penalty, to leave their business periodically in order to attend on juries, and the great landlords be at liberty to do as they please? If the farmer turns round and says to the State-"I wish to attend to my own business and not to lose my time and money by going to the assizes and sessions; I really do not want to have any interference about any one's trial, but to stay at home and look after my own concerns," the State will very soon reply to this effect, "My good friend, you must know that you occupy a position which makes you amenable to the service of your country; you must therefore assist me in the duty I require of you." Why should not the State speak thus to the Absentee landlord also in reference to his national duties? Of course, as there are exceptions to every rule, allowance should be made for those who might be holding Governmental appointments, either in England or the Colonies, because such appointments would be a proof of service rendered to the Empire at large, and this would form a good and constitutional excuse for absence. Besides, it should be noted that in such cases it would not be the money of the country that would be spent away out of Ireland, but the money of the Empire, which goes to pay the salaries attached to the offices so held.

Let the State then take this matter into its hands also (as well as the land), and put a stop to an evil which impoverishes the country to such a fearful extent. What

nonsense it is to be talking about Irish prosperity at lord mayor's banquets and agricultural dinners, so long as this outrage against the healthy progress of the kingdom is allowed to be committed with impunity! This country can be made truly prosperous, no doubt, by setting everything right that is at present wrong in it; and all this can be done very easily, if there is only the will and the determination to do it. Does it not look very like mockery when we hear member after member of this or that Government "speeching" in this strain—"I can assure you, gentlemen, that it is the heartfelt wish of Her Maiestv's Government to do all in their power towards improving the condition of the sister isle (loud cheers). And if they can only see their way to what they ought to do in this respect, there are no men upon this earth who will more readily do it (renewed cheers). I repeat it, gentlemen, that these are not only my own individual sentiments, but they are the sentiments of my colleagues; and I shall conclude by promising, on the part of Her Majesty's Government, that nothing shall be left undone that can be done. by wise and sound legislation, to ameliorate the condition of Ireland. (The noble lord resumed his seat amid enthusiastic applause.)" And there it ends, and there is nothing more done. It is all fine talk which turns out to be vox et praeterea nihil-all good wishes and bright Well, then, I hope there can be no excuse moonshine. now for not taking in hands two measures of the greatest importance to Ireland-namely, the land settlement, according to the plan which I have laid down, and which I am happy to find is endorsed by public opinion as the right one, and the Absentee settlement also-according to the way I have pointed out.

Wicklow, March 26, 1869.

#### LETTER No. V.

## THE ANNUAL MEETING OF IRISH MEMBERS IN DUBLIN FOR THE TRANSACTION OF IRISH BUSINESS.

SIR.—Viewed in a business-like point of view the present system of Parliamentary business, both as regards Ireland and Scotland, is very absurd. Common sense would dictate that the consideration of Irish matters ought to be by Irishmen, and on Irish ground, and a similar remark might, of course, be made as regards Scotch affairs. The business of this country is, for the most part, in the hands of the Chief Secretary, who often happens to be an Englishman: and when we take into account the multifarious demands on his time and attention, not to speak of his ignorance of the wants of the country, it is utterly impossible that the requirements of the nation can be adequately attended to. In fact, the truth may as well be told, it is little short of a mockery the way Irish business is now managed. What absurdity it is to be bringing 105 men to London every year to do what ought to be previously done in Dublin! But even when they do go to London, if they would all assemble in a room of the House of Commons, or a hotel, and there deliberate amongst themselves as to what measures ought to be proposed for Ireland, it would not be so bad, but nothing of the kind takes place; on the contrary, they mix with 550 others and are broken up into knots and parties, so that there is no kind of unison amongst them. This is not the way to do business effectually for this country, and, therefore, the sooner it is altered the better.

What I would propose is this:—Let the Irish members assemble in Dublin for one month every year—say during the month of November—and then and there consider and

discuss Irish business, and agree as to what ought to be done for Ireland. Then everything could be ready for the meeting of the Imperial Legislature; and there would be a vast deal of time saved, as there would be little or no discussion necessary in the passing of these measures. should say that in the case of every measure, where the taxation was altogether confined to this country, the bill would pass, as a matter of course, without any loss of time in discussion, because the Minister would naturally say:-"Gentlemen. I see that this is a matter which does not affect the Empire at large, in the way of taxation, and, therefore, as you have agreed amongst yourselves that it is a beneficial measure for your country, the Government will offer no opposition to it." And, of course, the English and Scotch members would likewise say:-"We do not want to interfere in Irish business, but to attend to our own; therefore, gentlemen, whatever pleases you, will please us." No doubt in the case of any measure where the taxation would be partly paid by Ireland and partly out of the Imperial Exchequer, the matter would be fairly open to objection on the part of the other members, and it would, therefore, have to take its chance; but even in a case of this kind it would be so much gained by the Irish members that they had previously considered it, and were well made up in argument, and besides numbered a goodly host in its defence.

I think then that nothing can be clearer but that this arrangement would be most advantageous to the country; and, as I have said, the same rule would apply to Scotland. But if the Scotch are satisfied with the present mode of procedure they can be so, but it does not, by any means, suit this country. However, I believe that the Scotch members usually band together in London, whenever they want any particular measure passed, and having agreed about it they then bring their united pressure to bear on

the Government, and by this means get what they want. It may, indeed, be said that the Irish members would disagree in Dublin, and that they would only wrangle and quarrel amongst themselves, and that consequently no good would be done. To this objection I at once answer that they would have the eyes of the country upon them, and they would be obliged to do business. Besides, in almost everything connected with the material prosperity of Ireland, there would be no occasion for disagreement, as, for instance, the question of the purchase of the Railways by the State, in which we see the greatest unanimity prevailing.

This would not be a virtual Repeal of the Union, as every measure agreed upon in Dublin would afterwards have to pass regularly through the United Parliament, would simply be in the nature of a preliminary committee of the whole of the Irish members, required by the Government to assemble together for the consideration of Irish matters, to be afterwards subject to the approval of Government and the two Houses of Parliament. In fact. it would be analogous to the meeting of the magistrates and associated cesspayers at the Presentment Sessions, where the baronial business is agreed upon, which is afterwards to be sanctioned by the grand jury at the assizes and fiated by the Court—where the grand jury represents the Imperial Legislature, and the Court the Queen-an arrangement which facilitates the fiscal business and renders long discussions before the grand jury unnecessary. It must appear plain to every unprejudiced mind that such an arrangement would not only be advantageous to this country, but would also be serviceable to the Government, as it would relieve them of the responsibility of legislating for Ireland, and it would (as I have already remarked) result in a great saving of time during the Parliamentary Session. I am of opinion that the Scotch

members ought likewise to meet in Edinburgh for a like purpose, and the English members in London for the transaction of English affairs, and then all could meet together at the usual time, for the consideration of Imperial matters. This appears to me to be the plain, obvious, and common-sense way in which the business of the Three Kingdoms, severally, and the business of the Empire, collectively, ought to be done.

Wicklow, April 16, 1869.

### LETTER No. VI.

#### PUBLIC HOUSES.

SIR,—The public-house system is a monstrous national iniquity, and a source of the greatest evil to Ireland, and it is therefore utterly impossible for any one who undertakes to strike out a plan for bettering the condition of the country to omit it. The public-houses are so many carsvansaries of Satan in town and country, so many devil's trap-houses for ensuaring the public for hell, so many slaughter houses of virtue and morals, and their ownersthe full truth must be told, however painful it be-stern. uncompromising honesty demands it—their "owners," I say, are agents of Satan as sure as ever they were born! They may try to quiet their consciences as best they can with this, that, and the other hypocritical excuse, and the devil will aid them to the best of his ability by telling them to be religious and charitable, and that all will be right in the end; and that after all people must live and knock out a livelihood in some way or other; and that in reality selling drink is not so bad a thing at all; that many good and respectable people follow the business, and that if evil ensues, the publicans—who never mean any

thing wrong to happen—must therefore be deemed innocent. This deceptive reasoning supplied by the evil one succeeds well, and serves his purpose admirably: consequently we see that the publicans ply their terrible trade of debauching society, at the same time that they attend to their "religious duties" with zeal and diligence, and their charity is unbounded, as the beggars are always to be seen at their doors! Well. all this will not do, and hear, O publican! thy doom in these testing words of Christ:-"Except your righteousness exceeds the righteousness of Pharisees thou shalt in no wise enter into the kingdom of heaven!" Hear again, O publican! these awful words:--"The curse of the Lord is in the house of the wicked;" and your house is a "wicked" one, for the Lord is blasphemed and the devil glorified in it daily. therefore thou comest in for the curse! again. O Publican! more awful words; they are these:-"The prayer of the wicked is an abomination to the Lord," and thou art "wicked" whilst thou keepest open a "wicked" house for the service of God's enemy, and therefore thy prayer is disgusting to Him who is of purer eyes than to behold iniquity with complacency. Know then, O publican! that thy business is not a lawful one in God's sight; and thou must therefore either cast away His word from thee or pull down thy sign-board, as there can be no communion between "light and darkness," between "God and Belial," between Christ and Satan. not, O publican! that thou canst coax God with thy gifts and bribes to let thee sin away! Think not vainly to thyself that the Lord "hath as great delight in burnt offerings and sacrifices as in obeying the voice of the Lord. Behold to obey is better than sacrifice, and to hearken than the fat of rams" (1 Sam. xv., 22). And what is the "voice of the Lord" to thee, O publican? It is this-"cease to do evil." "When the wicked man turneth away

from his wickedness that he hath committed, and doeth that which is lawful and right" [mark these words, publican—"lawful and right"] "he shall save his soul alive." Give up then your evil trade and earn honest bread. Know that a penny from God is better than a pound from the devil—that an easy mind in a "brake o' briers" is better than a troubled spirit on a "bed o' down;" and that a Christian's death, with a pauper's grave, is better than a publican's end, with a lordly tomb!

Alas! the history of public-houses is one of "lamentation and mourning, and woe," and contemplated in a religious point of view, eternity alone can unfold their horrors. What household in Ireland has not had cause in some way or other to mourn from the public-house? That a professedly Christian nation should keep up such a system which may be not inaptly termed "the sum of all villanies"—is one of the most flagitious inconsistencies that it is possible to conceive. And I hesitate not to say that the "State" which dares in the face of High Heaven to perpetrate such a national crime is answerable before God for the direful consequences! No one directly or indirectly connected with the establishment of a public-house, whether it be the Government that sanctions it, the attorney that pleads for it, the magistrates that approve of it, the landlord that allows it on his property, or the lord of the inn that stands at the "bar," can possibly be guiltless! Why? Because they know, each and all of them, in their secret souls, that it is not a thing that the public goodthe real honest article—requires; but on the contrary they all know full well that the public house is a positive evil to society. Ah! it is not in the power of puny man to do either of two things, namely—to put out the candle of conscience which God put within him, and which lighteth up the "inward parts," disclosing to him his secret sins, or to throw dust in the eyes of the Almighty! When he can do

one or the other of these things, then he may indeed reckon on the possibility of having to do with a publichouse, and yet be innocent! If, for instance, every owner of property in Ireland was a true Christian, there would not be one such house in the kingdom; because a truly Christian man could not, and would not, allow such a thing on his property, no matter what rent was offered to him for it. He dare not approach the Lord in sincere prayer, and be the supporter of a public-house. And if every attorney was a true Christian there would be no one to plead for it. And if every magistrate was a true Christian there would be no one to approve of it. Then they would not exist in the land, notwithstanding the permission of the law, because true Christians could not lend themselves to carry out a sinful enactment—they would resign their posts first.

This system destroys the morality of the country, impairs the naturally-fine constitutions of the Irish race, engenders crime of every description, and fills the land with destitution. What right has the State, I would ask, to place temptation-houses in the way of men, and then punish them for getting drunk in them? What right has the State to establish a state of things that is ruinous to the moral and physical health of a people, leaving the spiritual part altogether out of the question? What right has the State to keep up a system that fills the gaols with criminals, the hospitals with patients, the poor houses with paupers, and that entails on the country, as the consequence, heavy taxation? The State even from motives of sound policy should be the encourager of morality and virtue; because these qualities are calculated to make a people happy and a nation great. Yes, "righteousness," saith the Scripture, "exalteth a nation, but sin is a reproach to any people." Indeed I might lay it down as a sound principle of Government, that the public-house system is really unconstitutional; because, properly speaking, it is not competent—that is to say, it cannot be truly lawful—for the State to do anything which is calculated to injure society, as it is to be regarded as the protector of the public; but the public-house system is injurious and prejudicial to society (and the State knows that it is); therefore the system is bona fide unconstitutional in the genuine sense and import of the word.

Again, the true principles of political economy would dictate to a State to take care of the health and strength of its people as so much valuable property; because it is of great importance to have the men who are to fight for it in the day of battle—soldiers, sailors, and volunteers—all fine, athletic, vigorous fellows, as the more enduring they are in that day, amid the cannon's roar and the bugle's call, the clash of arms, and the cries of death, the better for the prospects of victory; but even if the battle-day never came, these qualities make for the general welfare of a nation.

Further, it may be safely laid down as a maxim in social economy, that morality and prosperity go hand in hand together, consequently the less immorality there is in a country the greater will be its prosperity. This being the case, it is the bounden duty of the State—which should always look to the prosperity of the country, and the best way of promoting it—to preserve the morals of the nation to the best of its ability, and it is truly wise to do so, as the Government of the country can all the more readily and cheaply be carried on; but to keep up the public-house system is to do the very contrary, namely, ruin the morals of the community, and the natural result is, greater difficulty and expense in the Government of the kingdom.

What I would therefore propose is a great mitigation of the evil, namely, to let spirits of every description be sold by grocers and other respectable traders under license, just as any other commodity is sold and carried away, such license, however, to be revoked in case of

any unlawful drinking on the premises. Then if any man wanted a bottle of whiskey he could send for it, just as he would send for tea and sugar, or a loaf, and use it at home in his own house. This mode of drinking would do away with the terrible evils of the open public-house system in every town, while it would insure a good article for the purchaser, instead of the poisonous stuff sold in these houses as at present; and society would be an immense gainer by the change in point of public order and decency. As regards any falling off in the Revenue, this should only be made up in other ways; but even though it became necessary to increase the tax on tea, the poor people who suffer so much in a money point of view, by the public house, would be very glad to make the exchange, and be very thankful to the Government "into the bargain." And if it were necessary to increase the Income Tax too, why let it be increased. Let right be done no matter what takes place in the beginning; because what is "right" is "right," and must end "right" for all parties, and for the country as a whole. One thing, however, is certain, and that is—that the Government has no "right" to trade on the vice and folly of a nation. And as it is absolutely necessary to make a combined effort to push this country ahead, the public-houses, as well as every other obstruction, must leave the way.

Wicklow, May 7, 1869.

## LETTER No. VII.

#### THE RAILWAY SYSTEM.

SIR,—It needs but little argument to show that cheap travelling for the public and cheap transit for merchandize would be another step in the right direction towards im-

proving the condition of this country. Everybody is aware of the great boon the present cheap postage system is to the community, when compared with the former oppressive system; and in the same way, but to a much greater extent, would a substantial reduction of the present railway rates be a boon and benefit to the public. do not think that I need ask to dilate at any length on this subject, as it has been for a considerable time under discussion in the public Press, in connexion with the proposed plan of placing the entire of the Irish railways in the hands of the Government. All I need say, therefore, is, that the sooner the Government has the management of them the better, so as that a reduction of fares and rates may be effected for the good of the community. have already laid it down as a principle that the State is bound to do everything in its power to serve the interests of the general public, I am of opinion that it ought to take the railways into its possession for this purpose. And, further, I would remark that, as in the case of the land, it is its duty to take the power out of the hands of the territorial lords which they are not using for the general good of the country; so in like manner ought it to take the power out of the hands of the railway lords which they are not using for the general good, and do the business itself by its own And I may still further observe, analogically, that the fact that there is a general cry on all hands, and by all parties, that the Government ought to manage the railways itself, for the good of the public, is a proof that I am right in proposing that the same rule should apply to the land. For if it be right—and the landlords say it is -that the "rights of property" should be interfered with as regards the railways, for the good of the commonwealth. so also must it be right that the "rights of property" (in the landlord sense) should be interfered with as regards the land, for the good of the commonwealth also; as both

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landlords and railway lords are retarding public progress by their present procedure. The only difference is, that in the case of the railways it is proposed to take all power out of the hands of the owners and settle with them on as fair terms as can be ascertained; but in the case of the land I propose that only that part of the present powers shall be taken which is necessary for the general good of the country. I say then that I am fortified in my argument, as regards the settlement of the land question, by the very conduct of the landlords themselves at present, in proclaiming aloud and most energetically in favour of State interference as regards the railways. In fact, the sum of the whole matter is this, if the landlords are right in their doctrine as regards the railways, then I must be right in my doctrine as regards the land—and I say that we are both right.

I think I have nearly dealt with all the principal topics now; but there are a few aditional things which might be mentioned, one or two of which I shall notice. For instance,

#### HOLYDAYS.

Now I do not want in the least degree to hurt the feelings of Roman Catholics in speaking about holydays, and I am sure that they will believe me when I say so; but I am bound to notice them as days which, in an agricultural sense, are lost to the country, and on which a great deal of crime and folly takes place. I would just leave it to Roman Catholics themselves to say whether there is not more actual sin committed on these days than on any other days of the year; and, in point of fact whether these are not the days which are specially set apart for vicious and criminal purposes! I must, therefore, take cognizance of them in a philosophic spirit, with

the view of showing that if they were altogether abolished, or at all events greatly retrenched, it would be so much gain to Ireland; and when I consider that the Church of Rome is in the habit of doing as she likes with these days, either increasing them or lessening them at her pleasure, I am the more justified in suggesting the non observance of them as one of the many things that would serve the country. I may also observe that in any general effort to improve the condition of Ireland (and this is just the thing we want) it is the patriotic duty of every class and creed in it to lend a hand, and why not the Roman Catholic Hierarchy also, as well as others, where they can be of service? And let me add that the money value of these days—taking their number at nine (as the yearly average) would be about £600,000 (in round numbers) per year: that is to say, each holyday is worth (say) about £70,000 in wages to artizans, laborers, etc., and this multiplied by nine gives £630,000 for the year, so that what I want is that a sum equal in amount to about the whole revenue of the Irish Church should, instead of being lost to the working classes of Roman Catholics by these holydays, be divided amongst them; and this would not be the only benefit they would derive from their abolition, as they would also have in their pockets what they spend to bad purposes in the towns on these days; while, on the other hand, the country generally would come in for the benefit of the additional labor of the peasantry, which would redound to the advantage of Catholic and Protestant= farmer alike, instead of (as at present) being put to great= inconvenience and loss on many occasions by these days. As, however, the Church of Rome has even in our own

<sup>\*</sup> Certain it is that in Roman Catholic countries the injury done by holy—days had to be taken notice of by the governments of these countries, and they were reduced in number. In Spain, for instance, they were reduced to one-half or thereabouts, but then undoubtedly there were far more of the observed there than in this country.

was in former years, I would respectfully suggest a still further diminution, if not a total abolition, of the present holydays, with a view to the advancement of the general Prosperity and well-being of the country.†

I next come to

#### HORSE-RACING.

If it be necessary to keep up horse-racing in order to test the best animals, with a view to the improvement of the breeding of horses, some means ought, at all events, to be tried to prevent the evils attendant upon it. We all know that drinking, gambling, swindling, and immorality are at present connected with "races" in a general point of view, and that loss, damage, and ruin to purse and character occur in numerous instances, bringing utter destruction on individuals and families. Now all this is very bad, and something ought therefore to be done to abate the mischief. And here I am again reminded of the publichouses, whose baneful effects are so apparent during these days. Is not this an additional reason why the Government should abolish them altogether, and not have them as traps for the country people on these days? Let the Government then break up the public-houses, and prevent booths and tents being erected on race-courses, so that the peasantry may be induced to go home instead of getting drunk in them and lying out all night. "book-making," betting, and gambling of all descriptions on the course, or in connexion with the races, be declared not only illegal, but also punishable with heavy penalties. Of course when the public-houses, booths, and tents are

<sup>†</sup> Since the foregoing letter was written the Act has passed for disestablishing and disendowing the Protestant Church, and I therefore think that this circumstance affords an additional reason why the authorities of the Church of Rome in this country should the more readily consent to a further reduction of the number of holydays.

done away with, a vast deal of the evil caused by races would be obviated. And while on the subject of pleasure I might further add that, when the railways are in the hands of the Government (as it is to be hoped that it is only a question of time until they are), the public might be indulged in cheap excursions to beautiful, picturesque, and romantic districts, calculated to refine their feelings and tastes, as well as affording healthful and harmless gratification.

The last item I shall mention is the

#### CIRCULATION OF MONEY.

And though "last" it is certainly not the "least" of the ways by which a country can be made prosperous, but on the contrary it is one of the surest methods at all. already said (in my letter on Absenteeism) that the money of a country is its "commercial life-blood;" and, following up the analogy, I may remark that just as in the human body the free and proper circulation of the blood, through all the "vessels," is conducive to good health, strength, and activity, so, in the metaphorical sense, the money-blood of a nation ought to be circulated throughout all the veins and arteries of society, so as to keep up its commercial health and vigour: consequently it is a patriotic duty for every man of money to spend it in useful enterprizes. works, improvements, etc. Such a man is really and truly a benefactor of his country, and a blessing to society; while the man who hoards his money is an "unprofitable servant." It is also encouraging and consolatory to such a man to know that the best wishes of the nation are with him; the country feels a pang when such a man is disappointed, and rejoices when he succeeds, as it is for the general good of society that all his undertakings should prosper.

Let all Irishmen then who have money lying in unpro-

ductive idleness, lay it out in useful speculations, and not be brooding over it in miserly selfishness, begetting a most unwholesome state of mind. Let them take it out in hundreds and thousands, according to their several abilities, and spend it manfully; giving useful employment, and shewing a good example to others.

This is the way, or one of the ways, that England has become so rich and powerful. Englishmen will not keep their money in banks and boxes whenever they can get an opportunity for safely investing it; and if Irishmen would do the same, the country would prosper apace. And one cogent reason why the present precarious system of land tenure should be abolished is, that it is so discouraging to the tenantry to lay out their money in the improvement of their land. However, I hope that everything will soon be altered for the better, and that a bright era of prosperity and happiness will speedily commence.

Hoping to wind up in my next.—I am, sir, &c.

Wicklow, May 21, 1869.

# LETTER No. VIII.

#### RESUME.

SIR,—Having now come to the close of my series of letters, it only remains for me to give a *resumè* of the whole plan for making this country "rich and prosperous." Here it is:—

#### THE LAND.

a.—Let the Assistant-Barrister\* (or Chairman) of each

NOTE.—I use the term "Barrister" because it is better understood by the faming class than "Chairman."

county be appointed the Officer of the State for giving leases to all tenants-at-will, who wish for them, and cannot come to terms with their landlords.

- b.—Let the Barrister be empowered to grant a State lease for sixty-one years to each applicant, or a lease for such shorter period as the circumstances of the case may require; and let him have power to refuse a lease altogether, where just cause can be shewn that it ought not to issue.
- c.—Let the covenants of the lease be drawn up by the State (as a general form), but let the Barrister have power to add one or more, according to circumstances, or alter or modify any covenant in the lease as he shall think proper.
- d.—Let all improvements in land or buildings go to the landlord at the expiration of the lease.
- e.—Let "present rent" be the general rule for each lease, but let the Barrister have full discretionary powers either to raise or lower it in certain cases; and let him have the further power of empannelling a jury for the purpose of determining a fair rent, in any case where he may deem it advisable to do so.
- f.—Let each lease be duly registered by the Clerk othe Peace, and let a comparatively small charge be madfor it.
- g.—Let the right of appeal to the Judge be given landlord or tenant, but let such appeal be subject to tertificate of the Barrister that it is a fair case for appeal.
- h.—Let "Tenant Right" be acknowledged by empowering any tenant who is leaving his farm to sell his interest to another (after giving the landlord the right of preemption).

#### ABSENTEEISM.

2. Let Absenteeism be prevented by making every land-

lord, whose property is exclusively in Ireland, remain at home on it, for, at least, nine months in the year; and in the case of those who have properties elsewhere, (as well as in Ireland,) let them be obliged to live on their Irish properties for a period in each year proportionate to such properties; exceptions to be made in the case of persons holding governmental appointments abroad.

#### MEETING OF IRISH MEMBERS.

3. Let the Irish members of Parliament meet in Dublin for a fixed period—say during the month of November—in each year, for the purpose of consulting together (in the nature of a committee) with regard to Irish matters, and let "Bills" be accordingly prepared against the meeting of Parliament, to be passed in the usual way.

#### PUBLIC-HOUSES.

4. Let the present public-house system be abolished, and, in lieu thereof, let spirits be sold by grocers and others (under special license), to be carried away like any other article.

#### RAILWAYS.

5. Let Government purchase the Irish railways with the view of reducing the rates for passengers and merchandize.

#### HOLYDAYS.

6. Let the Church of Rome either abolish the holydays altogether, or reduce them to the lowest minimum.

#### HORSE-RACING.

7. Let the evils connected with horse-racing be abated in the way I have pointed out.

#### CIRCULATION OF MONEY.

8. Let all Irishmen of capital lay it out industriously, in useful improvements, buildings, speculations, etc.

In addition to the foregoing, I would observe that we are entitled to some return for the money which our members spend annually in England during the parliamentary session. It is not fair that this money should be taken every year from us, and nothing given in lieu of it. A royal residence in Ireland, for one or more members of the Royal Family to spend a portion of each year with us, would recoup us for this expenditure; and I consider that we are entitled to it, without going on our knees to beg for it.

This is the programme which I put forward, and if it be carried out, or even part of it, this country will soon be a different one from what it is, in point of wealth and pro-Let the Government, then, do its part by settling the "land question," putting a stop to Absenteeism, calling the Irish members together in Dublin every year for the transaction of Irish business, and abolishing the present demoralising public-house system, and, without doing any more, it will have done enough to entitle it to the thanks and gratitude of this country. If it can see its way to the purchasing of the railways, why it will be an additional boon still; and if it should think well of preventing al gambling in connexion with horse-racing it would be further step in the right direction. But, undoubtedly, it should take in hand the first four heads, and deal with them in the way I have pointed out, for the general good of the kingdom.

I consider, too, that the authorities of the Church ——of

Rome should lend a hand in the "good work," by putting an end to the holydays, which all parties believe to be injurious to the country.

As regards the spending of capital, of course this is a thing that we can do nothing about, unless recommend it to Irishmen. But we all know very well that if the land question was permanently settled, the outlay of capital—to an enormous extent—would take place, and all would go well.

And now, another word about the land I firmly maintain then that I have effected a solution of this grand problem, that is at once just, safe, and constitutional. editor of a Dublin newspaper, in a leading article some time ago, remarked that the statesman who would settle this question in a way that would be just to all parties, and yet preserve the rights of all, would be entitled to the gratitude of the nation. I boldly affirm then, that my plan exactly meets these conditions, as it does substantial justice (for this is all that can be attained) to the three great parties concerned—namely, the landlords, the tenants, and the people—and, at the same time, maintains the just rights of all. The truth of the matter is that the true "ownership" of the land was not heretofore known-at least not fully stated-until I laid it down clearly and intelligibly. The right of the landlord seemed to swallow up every other right, insomuch that a gentleman (an estimable clergyman) said to me, after my first letter appeared, that he could not see what right the "State" or the "people" had to the land! He acknowledged the Almighty's right, and the landlord's, to be sure, but this was all. And as long as this general ignorance of the true rights of all parties existed, what hope could be entertained of a fair and just settlement of the matter? The first thing to be done, then, was to state the "ownership" truly in its five-fold nature, and this I have done.

I show that the "State" has *its* right, and the people *their* right, as well as the landlord *his* right, and this clears the way for the solution.

Well then, after settling this preliminary question of the ownership, I next put the question to myself. "How am I to be just to the landlord and the tenant, and at the same time do justice to the country at large?" For let it be noted, that the right of the country—that is, the right of the community at large—to the full fruits of the earth, on honest conditions, seemed to be a thing altogether forgotten or ignored. But I have not forgotten it, but have put it forward in the place it ought to occupy in the settlement of this question; and I have proved from the Word of God that this right or claim is a just and valid one. Well, I found that it was out of the question to think of doing impartial justice to the three interests, so long as I allowed one of the parties—the landlord—to be the judge of his own case; and, after a good deal of mental reasoning and reflection, I discovered (for I may regard the solution as a discovery) that the State—whose duty it is to do justice to all parties—should interfere in some way or other in the business, and that it had a perfect right to interfere as owner No. II. of the land. I further saw that it should appoint its own officers, and I then saw that these officers were actually at hand in the persons of the Assistant. Barristers. And I saw still further, that the real question, after all, as between landlord and tenant, and between both and the country at large, was (like many other questions) simply one of justice and "fair play;" and that this being the case, it was only fit and proper that it should be placed in the hands of the sworn officers of the State, to do impartial justice to all parties. And I saw, moreover, that in reality these very men were already the officers of the State for settling the higher business connected with the land—that is, questions relating to ownership, title, etc.; and that, therefore, there could be no valid reason assigned why the entire business, embracing lease-making, etc., should not be transferred to them also.

"The grand question is solved," said I to myself; "this is beyond all doubt the true solution of it, as it is that which establishes the proper equilibrium of justice for these three parties—the landlord, the tenant, and the people." At first sight, no doubt, it might appear to be a most unwarrantable interference with the landlord's right, to take the power of granting leases out of his hands and put it into the hands of the Assistant-Barrister, but when the explanation is given, the thing appears to be as fair as possible.

Now, I would ask this question—have the people at large—the general population—no sort of right or interest in the soil at all? Methinks that, after what I have stated and proved, every disinterested person, at least, will agree that they have; and I should hope that no landlord could be found who would have the hardihood to deny it. In fact, it cannot be denied, for God himself says that they have. Well then, let it be granted that the people have an interest-fair and understandable-in the land, the tenant has another well understood interest in it; and, of course, the landlord has his interest. not obvious, then, that not the landlord, or the tenant, or the people—being each an interested party—should, according to the rules of "fair play" (to speak familiarly) be the judge of what is right to do for the good of all, but some disinterested party, who would hold the scales of justice evenly for all? This disinterested party, then, is the "State," whose position places it above all suspicion. Is not this then the solution of the great land question? I say that it is, because once this principle of State interference is allowed, the fundamental difficulty is removed, and the foundation laid for a full settlement.

But I may observe that, in point of fact, no violence is done after all by my plan, because I do not take the power out of the hands of the landlord and his tenant to settle matters amongst themselves. My plan might become law to-morrow, and yet it would not necessarily disturb the good relations which may at present subsist between a landlord and his tenantry. I only propose that, in every case where the two of them cannot agree, the right of appeal to the State—that is, from the inferior to the superior landlord-shall lie with the tenant, in order that substantial justice may be done to him. Is not this perfectly fair? And here I may further remark, that it is not absolutely necessary, per se, that leases should be given at all for the good of the country, because if a tenant will work as much, and improve as well, without a lease as with one, the requirements of society are met, and all is well; and, in reality, if this were the case generally. there would be little or no occasion to interfere. this is not the case, unless in some instances, and all honour to the landlords who do so deal with their tenants. that there is no occasion for any one else to interfere between them. Indeed we could name some excellent men in our own county of this class, and who fulfil all their other social duties besides—staying at home on their properties, improving them, spending their money, and attending to the wants of their tenants, etc. Such men deserve the thanks and gratitude of their country, and I am of opinion that some special honour ought to be awarded them by the State.

This, I say, is not the case generally though, and hence the necessity of a remedy for the evil, because it is not competent for any set of men, however high their social position, to stop the progress of their country. The general interest, therefore requires that the reasonable, demands of the tillers of the soil shall be granted, so as to secure their services—in the shape of superior farming for the public good; and it is accordingly for the public weal that the leases should be given. Further, I would remark that it is not to be supposed for one moment that the present landlords are, as a body, worse than other No such thing, as the fact of the matter is, that many individuals of the farming class who are now complaining so much about landlord exaction or tyranny—as they might call it—would, if landlords themselves, perhaps be far more exacting than those they find fault with. Such is the present unfortunate condition of human nature that we all need to be kept in check, or we would fly off in a tangent of self-interest and self-aggrandisement. Therefore, social "order," as I explained it in my first letter, is a harmonious system of social restraints or counterpoises, acting and reacting on each other, and resulting in the keeping of everything in its own proper place. the solution I have given to the great land problem preserves this order, by establishing a checking and regulating principle, that will conserve and maintain the just rights of landlords, tenants, and people, without allowing palpable injury to be done to any of them.

The plan which I propose would not be confiscatory of the landlord's right; it would only be preservative of the tenant's right to profit by his improvements—(and this is in reality all that the Irish tenant wants)—while it would at the same time give additional security to the landlords, and also secure to the country the advantages of good husbandry, in which I may remark England herself would largely share. And, whereas, by Mr. Bright's plan of small proprietorships, the landlords would be changed into mere mortgagees, taking no further interest in their property and so increasing instead of diminishing Absenteeism, by my plan they would be kept at home, and their money and moral influence secured to the country; and,

besides, it is for England to consider whether their presence here would not be more likely to preserve the "Union."

And now I would respectfully warn the landlords to beware that they refuse not a fair and equitable settlement of this long-continued dispute, lest they pay dearly for their obstinacy. On the West Indian coast it often have pens that the captain of a ship will hurriedly come from his cabin, and while everything is calm and sereme around him as regards sea and sky, give orders to his crew to lower all top spars, shorten sail, reef to the utmost. and make everything "taut." The sailors, who may unused to the coast and unskilled in the revelations of the "glass," will wonder what all this apparently-unnecessary preparation is about, but by-and-bye the sweeping "tormado" comes suddenly down upon them, whistling through the rigging, carrying everything that is not thoroughly "fast" before it, and lashing the ocean into foam. indeed, they see the necessity there was for the preparations during the calm. Well, we are in a calm at present, no doubt, but the barometers indicate a coming "tornad" that may sweep the decks of the good ship "society" of solid that is not fast bound thereon, and carry away everything loose before it. "The condition of our country and of the world," says a writer in an English organ, "is such the all men anticipate a period near at hand marked mighty events, and productive of changes of incalculab potency for good or evil. Never, probably, were suc agencies at once in such a state of restless and conflictin It seems as if some convulsion were on the poir of bursting forth, to shake the fabric of society to i foundations, and to cast the dissevered fragments into the boiling vortex, that they may be utterly broken to piece fused, and blended together preparatory to the formatio of a completely new order of things!" Solemn word these; but not more so than the portentous signs of the times appear to warrant, and the forecastings of statesmen and others to justify.

Let landlords, therefore, be wise in time to make their isst rights secure before the revolutionary storm comes lown, that will sweep before it every pretension that is not firmly based on the eternal principles of truth and justice.

I have now come to the conclusion of a rather lengthy argument, and it only remains for me to return you my best thanks, for kindly placing the columns of the Wicklow NEWS-LETTER at my disposal. And for myself, I need only say, in the language of the writer of the Maccabees, that "If I have done well, and as is fitting the story, it is that which I desired; but if slenderly and meanly, it is that which I could attain unto." At all events, it affords me much pleasure to learn that these letters have been so well received throughout this county, and I shall without much delay take the sense of the press and the public upon them, as I am of opinion that I have propounded a plan for the settlement of the "LAND QUESTION" which is safe, sound, and constitutional, as well as simple, natural, and practical, and that if my suggestions on the other subjects be adopted, the WHOLE SCHEME will result in making Ireland A RICH, PROSPEROUS, AND CON-**PENTED COUNTRY.** 

# APPENDIX.

The following Extract is taken from a leading Article of THE IRISH

TIMES on "Absentesism."

"ABSENTEEISM has, from times of remote antiquity, been regarded as the bane and curse of this country. The Absentee proprietors of Irish estates do nothing for the land but drain it of its produce. Absenteeism is not an evil of yesterday, neither is it the creation of the Act of Union. It has grown up here with the growth of the English power, and that power has over and over again acknowledged its existence, and has feebly attempted to remedy the mis-The first legislation on Absenteeism was three years after the conquest by Henry II. 'There was,' to use the words of Lord Coke in the fourth book of the Institutes, 'an Act made in the 3rd Henry II. worthy of remembrance which never yet was printed. whereby it was enacted that all manner of persons whatsoever who have any lands or tenements within Ireland shall RESIDE or dwell upon the same. And that all such as have there any castles or thereupon shall also dwell otherwise the Governor to dispose of half their living.' Two hunk, dred years later, when the English power had receded in Ireland; the evil of Absenteeism was again cropping up, and we find that one of the first measures of the reign of Richard II. relating to Ireland. was a stringent law against Absenteeism, obliging all persons who possessed lands, rents, or other incomes in Ireland to RESIDE there, or at least PAY A TAX to the amount of TWO-THIRDS OF THEIR IRISH REVENUES, those who attended the English Universities or were absent by special license being excepted. After a lapse of one hundred and sixty years the Absentee Act of the 28th Henry VIII., reciting the mischiefs occasioned by the absence of persons having lands in Ireland, passed. The King in the lastmentioned statute, took the very questionable course of CONFIS-CATING TO THE CROWN the estates of the Duke of Norfolk and other Absentees therein named."

# THE LAND QUESTION

IN

# IRELAND:

# SUGGESTIONS FOR ITS SOLUTION

BY THE APPLICATION OF

## MERCANTILE PRINCIPLES

TO

DEALINGS WITH LAND.

By JONATHAN PIM, M.P.

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# THE LAND QUESTION.

THE Land Question is, as respects Ireland, the question of the day. The following pages are offered to my constituents and the public as a contribution to that sum of public opinion which must eventually lead to its solution.

The Times of the 27th of August last, after describing the condition of Ireland as one of "chronic, unremedied, " and almost untouched disaffection," says, "It is im-"possible to exaggerate, and it would be weakness "to disguise the extreme danger of this state of "things:" yet The Times points out no remedy, unless it be a remedy to "stay till the disease works "itself out, and do nothing which interferes with the " restorative force of Nature." The Times says that "though the nature of the tenure by which land " is held in Ireland produces great occasional injus-"tice, it is unfortunately not such injustice as admits " of a legislative cure." This is a new view of the limits of jurisprudence. No legal remedy for injustice! There are certainly duties of imperfect obligation which cannot be enforced by legislation, but I never before heard that justice was one of these. It is a sufficient reply to such cavils, that men of the highest legal attainments think these duties of justice between landlord and tenant can and ought to be enforced by law. Until they are so enforced,

injustice will take place—injustice acknowledged but left without a remedy—and this injustice will still continue for the future, as it has done in the past, to "interfere with the restorative force of Nature."

The solution of this question is difficult, but certainly not impracticable. The principle which should guide us appears to me to be that of giving the greatest possible facility and certainty to all dealings respecting land, both those which relate to the ownership of landed property, and those also which take place between landlord and tenant. We should seek, as respects the relation between landlord and tenant, to substitute the mercantile principle of contract for the old feudal idea of dependence and protection. All contracts should be in writing; and where no contract exists, or where the contract is defective, the law should decide equitably as respects the rights and duties of each party. But to be able to make a fair and free contract, the parties must stand on equal terms, and the law must be impartial; and if the contract is to be valid and sure, the contracting parties must be able legally to bind their successors, and all those whom they represent, or who are interested in the property through them.

The "Record of Titles Act" and the "Land Debentures Act," passed in 1865, were intended to afford the requisite facilities as respects the ownership of landed property. The time which has elapsed since these Acts came into operation is but short; yet more than one hundred estates have already been placed upon the Record; and there is every reason to expect that,

<sup>\*</sup> The precise number of parliamentary titles recorded up to the 22nd of December, 1866, was 116, and the amount of purchase money paid for the estates so recorded was £20,5,507 os. 8d.

when these Acts become better known, the greatly increased facility and certainty which they afford to all dealings in the way of sale or mortgage will be duly appreciated, and their valuable provisions will be largely availed of by the landowners throughout Ireland. Thus land will become, to some extent, a mercantile commodity, to be bought and sold in smaller or larger lots, without the ruinous delay, uncertainty, and expense to which dealings with land have heretofore been liable. Then the farmer who has saved even a few hundred pounds will be able to invest his capital in land, if he wish to do so; and thus, becoming an owner of land, he will be bound by the strongest of all ties to promote the peace and prosperity of his country.

But it is the relation between landlord and tenant which imperatively demands an equitable settlement. There are many impediments which interfere with contracts, or render them uncertain—such as entails and settlements of every kind, mortgages and other incumbrances, &c. The mercantile principle of contract can never have a fair trial as respects land, until all bona fide contracts in writing, made with a tenant by any landlord, shall be binding on his successors, and on incumbrancers, and be in every way as safe for the tenant as if the landlord held in fee simple—and this without any notice, or the intervention of any third party. There should be some limitation as to the length of leases, and also as respects demesne lands, &c. and of course no lease should be granted at an undervalue or in reversion; but, within these limits, the lease, or the contract for compensation for improvements, should be good against all the world, unless set aside on account of fraud.

It is futile to talk of applying the mercantile principle of contract to the relation of landlord and tenant, unless the parties have full and unrestricted power to make a binding contract with respect to all contingencies that may arise.

I have no desire to advocate any forcible subdivision of landed property, or any legislative measures to prevent settlements. Although in the greater number of cases in which they are now effected I believe them to be useless and even injurious, yet the policy of interfering with the power of placing land under settlement is a subject on which much doubt exists, and on which the expression of any opinion is unnecessary for the purpose of the present essay. No one objects to funded or other personal property being placed under settlement by vesting it in trustees: why, then, should land be differently treated? The trustees of personal property have full powers of sale: the buyer is not bound to ascertain whether the stock transferred is their own property, or held in trust. The public good requires that the powers of trustees for landed property should be equally extensive: no land should be without an owner capable of dealing with it: no purchaser should be bound to look into the trust, or see what is done with the money he pays.\*

The modern principle of contract cannot be fairly

<sup>\*</sup> The question of entails or settlements of landed property is quite beside the object of the present essay. I have referred to it only because many persons have asserted that the "Land Question" cannot be settled except by the prohibition of entails. It should be remembered that there is no such thing as a law enabling a man to put his property into strict settlement. Such settlements arise from the recognised right of every man to dispose of his property as he chooses, by will or by deed of gift. This power has been limited by law, and no doubt it

carried out, unless the contracting parties stand on fair and equal terms. If one possess power over the other, the contract, when made, may no doubt be valid and binding, and, if the powerful party be just and considerate, the agreement may be a fair one; but it is deprived of the mercantile principle, if the two parties do not stand on equal terms when making their bar-The owners of land have an inherent superiority of which they cannot be deprived, because the land of a country is limited in extent; but that is no reason for continuing to them the power of taking the law into their own hands by the levying of a distress, or the superiority over other parties which is obtained by the preferential claim for rent over the other debts of the tenant. These relics of feudal power (strengthened, as they have been, by that legislation of the last century which sought a remedy for all the evils connected with land by increasing the power of the landlord) must be wholly swept away, and rent must become recoverable only as a simple contract debt, if the mercantile principle, which so many talk of when defending what they call the rights of property, is to have that free scope which alone will insure its success.

There can be no free working of the mercantile principle in the adjustment of the rent of a farm, so long as the farmer possessed of capital is subjected to the competition of persons who, except for the inducement which is afforded by the power of distress

might be further limited, if it appeared advisable to do so; but the legislation requisite would not be the repeal of an existing law, but the enacting of a prohibitory statute. Nevertheless, no settlement of private property should be permitted to interfere with the public good, and this requires that there should always be a legal owner capable of dealing with it, and able to give validity to any contract he may enter into.

and the right of priority of payment, would never be accepted as tenants.

But the utmost freedom of contract will not satisfy the requirements of the country, unless the law be such as, in the absence of a contract, or when the contract is defective, will secure the equitable rights of both landlord and tenant. Until comparatively lately, the object aimed at by legislation seems to have been to give the landlord complete power, and to trust to his humanity and his sense of honor to obtain fair treat-The tenant was understood to be ment for the tenant. dependent, and it was the landlord's duty to protect and not to oppress him. On the whole, these duties were, perhaps, as fairly performed by our forefathers as could reasonably have been expected. But the times have changed: the growth of modern agriculture renders improvement imperative, and the tenantry are no longer willing to be kept in a state of dependence: therefore it is now essential for the progress and even for the peace of the country that the tenant should have legal security.

The Landlord and Tenant Bill of the late Government was intended to give this security. The principle of this Bill was to vest in the tenant the ownership for thirty-one years of any improvement effected by himself, and which had not been effected in pursuance of, or in opposition to, an express written contract; so that, if turned out of his farm within that period of time, he could claim compensation for the increased value given to it by means of his improvements. Could anything be fairer or more equitable? It was eminently a moderate measure. If it erred, it was not in favour of the tenant. There was no retrospective clause, as there was in the bill brought in by Mr. Napier, then

Attorney-General, and afterwards Chancellor under Lord Derby, and which passed the House of Commons in 1852. There was no power of compulsion on the landlord, as there was in the Bill introduced into the House of Lords by Lord Stanley, now Earl of Derby, in 1845. It offered no obstruction to the complete efficiency of contracts, but laid down an equitable rule of law in their absence; in the same manner as the Statute of Distributions, while leaving to the testator absolute freedom as respects the disposal of his effects, makes a fair distribution of them in the event of intestacy.

No landlord need let his farm without a lease, unless he choose to do so. Nothing need prevent him, if possessed of the powers proposed to be conferred on limited owners by the Bill of the late Government, from making all the necessary improvements himself, and then he can readily preclude his tenant from claiming compensation; or he may contract with the tenant on fair terms as to whatever may be necessary. and thus settle the proper compensation beforehand. In any case, the lapse of thirty-one years would extinguish all claim. No exceptional privileges are needed. There have been in times past enough of exceptional legislation in favour of landlords, and enough of attempts at exceptional legislation to protect the The true remedy is complete freedom of contract-free scope for the play of individual interests, in a free and binding contract made between parties standing on equal terms to make it, and full security to the farmers of all classes for their equitable rights, in the absence of a specific agreement.

Some persons raise an objection to special legislation for Ireland on this subject. The answer is obvious. The claim of a man to the ownership of that to which

he has given a value being founded on natural equity, is equally just at all times and in all countries, but there may not be in every place an equal necessity for enforcing it by law; and there are many circumstances, unnecessary to enumerate, which render the need of legislation on this subject less pressing in England and Scotland than in Ireland.\* One might suppose from such an objection that there had never been any special legislation for Ireland. Is special legislation for coercion right and proper? and are we never to have special legislation when its object is to prevent the necessity for such coercion?

The foundation of the Landed Estates' Court may be referred to as at least one piece of special legislation, which no one will say ought not to exist in Ireland, because no similar court has been founded in England. The "Montgomery Act" was a piece of special legislation for Scotland, passed nearly an hundred years since, the value of which has been proved by time.

But, in truth, the English and Scotch farmers are by no means satisfied with the existing state of the law, though in some respects much more favourable to them than it is to the Irish farmer, inasmuch as, in many places, there are tenant-right customs which

<sup>\*</sup> The Earl of Derby, then Lord Stanley, when moving the second reading of his "Tenants' Compensation Bill," in the House of Lords on the 24th of June, 1845, said "Although he admitted the expediency of "legislating, as far as possible, upon the same principles for Ireland as "for England and Scotland, yet the circumstances of Ireland, as re" garded the relations between landlord and tenant, were so widely "different from those which obtained here [in England], that he felt "the Government were justified in applying principles of legislation to "Ireland which they were not called upon to introduce in the other "parts of the Empire, where it was not called for by the necessity of "the case."—Hansard, vol. 81, p. 1138.

# have the force of law.\* The evidence given in 1848, before Mr. Pusey's Committee on Agricultural Customs

- \* The Report of the Select Committee on Agricultural Customs in England and Wales, which was appointed by the House of Commons in 1848, and which is usually called by the name of its Chairman, Mr. Pusey, was reprinted last year by direction of Parliament, together with the minutes of evidence. It is a highly important document as respects the present question, but the whole Report is too long to quote. I extract the following statements:—
- "1. That different usages have long prevailed in different counties "and districts of the country, conferring a claim to remuneration on "an outgoing agricultural tenant, for various operations of husbandry, "the ordinary return of which he is precluded from receiving by the "termination of his tenancy."
- "2. That this claim, which is called Tenant-right, ordinarily extends "to one or more of the following objects; to the crop which the outgoing tenant has sown and leaves in the ground; remuneration for the preparation of the soil for crops by tillage, for the straw, hay, and dung left on the farm, and for growing underwood."
- "3. That these local usages are imported into leases or agreements for the letting and occupation of land between landlord and tenant, who are presumed to contract with reference to such usages, unless the terms of the agreement, expressly or by implication, negative usuch a presumption."
- "4. That in some parts of the country a modern usage has sprung up, which confers a right on the outgoing tenant to be reimbursed certain expenses, incurred by him in cultivation, other than those of ordinary husbandry."
- "8. That those usages have gradually grown into general acceptance in certain districts until they have ultimately become recognised there as the custom of the country."

The first witness examined by this Committee was Mr. James Stewart, a barrister. His reply is given as follows to question number 144, "Can you state to the Committee how far these customs, as cus" toms, are binding in law or not?"—"I conceive they are certainly binding in law; that evidence of those customs may be given and will be received by a court of justice, and that they distinctly and expressly bind dealings in land of that description; but that they are exceedingly conflicting, and it is also difficult, when it comes to the point, to ascertain exactly what the custom is."

in England, shows much dissatisfaction with the state of the law as respects landlord and tenant, and calls loudly for improved legislation; and as respects

The Earl of Derby, then Lord Stanley, in the speech from which I have already quoted, after referring to the employment of labour being checked in Ireland, "because there was no certainty of a return for the laying out of capital," says, "in England the right was secured not "only by law but by the custom of the country, which was equivalent "to law; that right was capable of being pleaded in a court of law." \* \* \* "The tenant, even the tenant at will, never asked "the opinion of his landlord whether he should drain a particular "field—he drained it. The work might last twelve, fifteen, or twenty " years; but it was not permanent, though durable; and yet, without "asking leave of the landlord, the tenant, being a tenant at will, and "being ejected by his landlord, would summon him for compensa-"tion, and the custom of the country would compel him to pay the "tenant. But that was neither the law nor the custom in Ireland = " and he asked their Lordships to apply that by law in Ireland, which "by custom had the force of law in England."—Hansard, vol. 81. " p. 1140.

\* There is a large amount of evidence to this effect. Mr. Carpenter. a farmer in Oxfordshire, says, (number 5796) "My opinion would be, "if a tenant put up additional buildings, that he should either be "allowed to remove them or be paid for them." Mr. Kilby, a tenant farmer in Leicestershire, says, (3773) "With respect to buildings, "there is a great difficulty in that respect; if the tenant erect any " buildings for his own convenience, I understand by the present law "that he is not at liberty to take them away at the expiration of the "tenancy; that is a most important matter. I think that if the "tenant should choose to erect buildings he ought at least to have "the privilege of taking them away at the expiration of his occupancy, " provided the landlord would not take them at a valuation; that "would be a great point gained." Mr. Bennett, a land agent and valuer in Bedfordshire, says, (1904) "It is a very unfair thing that a " person may erect a building detached from anything else, for the "accommodation of the farm, and not be allowed to remove it when "the tenancy is ended; that I think a most arbitrary law." Mr. Woodward, a farmer in Worcestershire, says (6343 to 6371) that the farm buildings in Worcestershire are "very bad upon the whole;" that "in many instances the landlords are so poor that they cannot afford,

Scotland, the evidence given in 1864 before the Commission appointed to consider the law relating to the landlord's right of hypothec, which is the Scotch equivalent for the right of distress, gives ample proof that, on that subject at least, the people of Scotland are very far from being contented.\*

"or will not put up the buildings;" that "the tenantry would do
"it if they could be allowed for it on leaving the farm;" that he could
mention cases "in which the tenants had asked for stipulations and
"covenants allowing them to remove the buildings or receive com"pensation," and had been "refused;" and that he had "never known
"such arrangements entered into."

Mr. Pinches, a landed proprietor in Shropshire, in reply to question 6718, "Are you of opinion that farmers are deterred from the outlay " of capital by the want of security ?" says, "most decidedly," and adds (6719) his "opinion as to the absolute necessity of tenant-"right in some shape or other; I see the want of it every day, " although I suppose in the county of Salop we have as good landlords. " I mean the large propietors are as good landlords, as in any country. "It is as safe to occupy a farm under them as under an enactment of "this kind, if such an one passed; but I think, looking to the whole "country generally, there are many cases where rack tenants are oc-"cupying farms where they cannot lay out money upon them; they "are afraid to lay out money;" and he explains (6792) that the tenant-right which he wants is "an enactment that would secure " the tenant farmer, upon the quitting of his occupation, for the outlay "of any capital which he had not had time to receive the benefit of "during the time of his tenure."

\* This Commission was appointed in November, 1864, and their Report was presented to Parliament in 1865. One hundred and two witnesses were examined, of whom twenty-six recommended the total abolition of the right. Only two appear to have advocated the maintenance of the present law, and the others suggested various modifications. The Commissioners in their report recommended some important alterations, the second of which was "that, in the event of the landlord failing to exercise his right of hypothec [distraint], within three months after the day or term at which the rent, or any portion thereof, is payable, such right for the rent or portion thereof then due shall cease and determine." From this report there were four dissentients, who, although signing it along with the seven other Com-

Again, it is sometimes stated that the present system has worked well in England, and that, even in Ireland, great improvements are taking place. This may, to a great extent, be true; bnt it is no proof that a system which gave greater facility for contract, and which maintained the equitable rights of all parties, would not work better. A similar objection was made to the adoption of freedom of trade. It was said that the plan of restriction and protection was working well; that the country was thriving, the farmers doing well, and the merchants and manufacturers growing rich. Happily for us, these reasons did not prevail. The principles of freedom triumphed, after a hard-fought battle, and we now enjoy the result. The principles for which we now contend will also, I have no doubt, yet triumph; and their effects on the happiness and prosperity of Ireland will, I confidently believe, be still greater than the effect which freedom of

missioners, transmitted their dissents also. These were, firstly, the Honble. Charles Carnegie, M.P. for Forfarshire, and Mr. George Young, Solicitor-General for Scotland and M.P. for Wigton, who stated that they did "not concur in the conclusion at which the "majority of the Commissioners had arrived—not to recommend any "alteration in the general principle of the law" \* \* \* \* \* \* and that, in their opinion, "a larger change than any suggested in "the Report might be made with safety and advantage to the agri"cultural interests of the country." Secondly, Mr. George Hope and Mr. Adam Curror, who, after giving their reasons at length, stated that they were "convinced that, due regard being had to existing leases, the "total abolition of the law is imperatively demanded both by justice "and expediency."

The subject of this Report was considered at a general meeting of the Scottish Chamber of Agriculture, held at Edinburgh, 14th November, 1865, and, after a long discussion, a petition to Parliament for the repeal of the law of hypothec was adopted, the large majority of the meeting voting for it.

trade has had on the prosperity of England and Scotland.

Lord Lifford, in a letter to The Times, dated the 2nd of November last, alleges that the disloyalty, which he says last year pervaded "by far the greater part of the "population in most of the counties of Ireland, was "entirely beside and distinct from the land question;" and in the same sentence he adds that it "was shared "in by no man possessing property." This clearly points out the true and probably the only remedy for the discontent and disaffection which prevail, namely, such legislation as will facilitate the acquisition of property, and especially of landed property, by the people of Ireland; and which, by encouraging improvement, and securing the tenant farmer in the enjoyment of whatever his industry or his capital may have created, will bind him to the institutions of his country by the strong tie which every man feels who possesses property in it.

The noble Earl, the head of the present Administration, thus concluded his speech in the House of Lords, when, as Lord Stanley, he moved the second reading of his "Tenants' Compensation Bill," on the 24th of June, 1845:—"The noble Marquis had stated that "Her Majesty's Government should take upon them-"selves the responsibility of disappointing the hopes "entertained in Ireland, which would be the result of "rejecting this Bill. On the part of Her Majesty's "Government he (Lord Stanley) must, in the exercise "of his best judgment, refuse to take upon himself "that responsibility. The Government had acted upon "the judgment not of enthusiasts, not of men dependent upon party ties, but upon men acting upon a "a full knowledge of the real state of Ireland. It

" was upon the recommendation of such men that the "Government had introduced a measure falling far "short of what was desired by many, for they had "encountered the danger of creating disappointment "by not going beyond the recommendation of those "to whom they had entrusted the task of enquiring " into the matter. But, on the other hand, they would "now be most justly open to the charge of creating " disappointment, and of incurring the highest respon-"sibility, if, after having founded a measure upon the " recommendation of men of the highest character and " of the greatest experience - men taken from all " parties in Ireland—and whose recommendation was "sustained by witnesses from every quarter-men " separated from each other by politics and by re-"ligious opinion, but who in common were all con-"nected with the landed interest in Ireland-Her " Majesty's Government would have incurred a serious "responsibility if, after all this, they were to consent " to abandon a Bill introduced under such circum-"stances. They would then be justly open to the "charge of creating a feeling of well-founded disap-"pointment and dissatisfaction among the people of "Ireland, and of shaking that confidence which he "trusted the people of Ireland reposed in the libe-" rality and justice of the British Parliament. " was not a responsibility which he, on the part of "Her Majesty's Government, was prepared to under-"take. He was certainly prepared calmly and delibe-"rately to consider in Committee all the details of the " measure; but if, without going into Committee, "their Lordships should reject the Bill, the responsi-" bility must rest not upon Her Majesty's Government, "but upon their Lordships."\*

<sup>\*</sup> Hansard, vol. 81, p. 1145, 1146.

It is now more than twenty-one years since these words were spoken, holding out expectations to the people of Ireland which have been constantly renewed by successive administrations. The anticipations of the noble Earl have been signally fulfilled. The repeated abandonment of the promised legislation has "created "a feeling of well-founded disappointment and dis-"satisfaction among the people of Ireland," and has thoroughly shaken whatever confidence they "reposed "in the liberality and justice of the British Parlia-"ment." Their hopes, so often raised and so often disappointed, seem at last to have given way, and, in the recklessness of despair, they appear to lend a too willing ear to the suggestions of those who counsel them to seek by the strong hand what they have hitherto failed to obtain by peaceful remonstrance. The attempt, if made, will no doubt bring ruin on those who make it. But is it to be ever thus? or may we not hope that the eminent Statesman, whose words I have just quoted, will yet, in his mature age, fulfil to the people of Ireland the promise which he held out to them in his youth, and by a wise and just legislation remove the Land Question from the list of Irish grievances?

As some contribution towards the settlement of this important question, a proposed Bill is appended. It is founded on the Government Bill of last session, but proposes wholly to repeal the act of 1860, the most important clauses of which were to have been repealed by the Government Bill. The clauses which were to be retained are embodied in the proposed Bill; but considerable modifications have been made, and there are also other alterations and additions, with notes explanatory of the reasons for suggesting these alterations.

In thus attempting to embody in a proposed Act of Parliament the more complete application of Commercial Principles to Dealings with Land, I have endeavoured to look at the subject on both sides. The possession of a small landed property has shown me practically some of the difficulties of the question; and has enabled me to participate in those feelings as to the "rights of property" which are, perhaps, inseparably connected with its possession. The strict maintenance of these rights is surely consistent with giving the sanction of law to the equitable claims of the tenant, but it must remain for others to judge how far my attempt to effect this has been successful.

There is, however, besides the landlord and the tenant, a third party interested in this questionnamely, the Public-the Commonwealth itself, for whose benefit the land exists. The essential idea of the feudal system of tenure was, as expressed by Blackstone, that "all lands are holden either mediately " or immediately of the crown;" and that a "subject, "therefore, hath only the usufruct, and not the abso-" lute property of the soil." Now, the Crown evidently represents the State, and the "usufruct" will scarcely warrant the possessor in obstructing those improvements which are essential to the proper cultivation of The ultimate property of the land is in the whole Nation, which is dependent on it for existence and support; and the Legislature is bound to take that course as respects legislation which will be for the benefit of the Nation as a whole.

### T T, T, R

#### FURTHER

To Amend the Law relating to the Tenure and Improvement of Land in Ireland.

WHEREAS it is expedient that an Act passed Preamble. in the Parliament holden in the 23rd and 24th years of the reign of Her present Majesty and intituled "The Landed Property (Ireland) Improvement Act, 1860," should be repealed, and that further and other Provision should be made for facilitating Improvements of Landed Property in Ireland: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

#### PRELIMINARY.

I. This Act shall apply to Ireland only, and Extent and short Title of the Act. may be cited for all Purposes as "The Landed Property (Ireland) Improvement Act, 1867."

II. In the construction of this Act the follow- Interpretation of Terms. ing Words and Expressions shall have the force and meaning hereby assigned to them, except where there is anything in the subject or context repugnant thereto:

The expression "Lord Lieutenant in Council" shall mean the Lord Lieutenant or other Chief Governor or Governors of Ireland for the Time being, by and with the Advice of Her Majesty's Privy Council in Ireland.

The word "Court" shall mean the Landed Estates Court, Ireland, or any Judge thereof; and the word "Judge" shall mean either of the

Judges of the said Court.

The word "Chairman" shall mean the Chairman of the Quarter Sessions of the County where the Lands, or any part of the Lands, in relation to which any Matter requiring the Cognizance of such Chairman arises, may be situate.

The expression "Clerk of the Peace" shall mean the Clerk of the Peace of the County where any Lands, or any part of the Lands, in relation to which any Matter as aforesaid arises, may be situate, and shall include any Deputy of any such Clerk of the Peace.

The word "Settlement" shall include any Instrument under which any Land or Lease shall be, at Law or in Equity, so limited as to create

partial or limited Estates or Interests.

The expression "Settled Estate" shall include any Lands in Settlement, whether such Lands are subject to Incumbrances or not, and whether the same be held in Fee Simple, Fee Farm, or Fee Tail, or for Lives or Years renewable for ever, or for an Estate or Interest renewable for a Term of not less than Sixty Years, or for a Term of Years of which not less than Sixty are unexpired.

The expression "Limited Owner" shall mean any Person beneficially entitled, under any Settlement at Law or in Equity, for his own Life, or for any Term determinable with his Life, to the Possession or Receipt of the Rents and Pro-

fits of any Settled Estate.

The expression "Lineal Successor" shall mean

such persons, being issue of the Limited Owner, as shall be beneficially entitled under the Settlement to the Possession or the Receipt of the Rents and Profits of the Lands, in Defeasance or on Determination of the Estate of the Limited Owner; and if any such person be an Infant, or a Person of an Unsound Mind, or a Married Woman who is not entitled for her separate use, it shall include the Guardian, Committee, or Husband, of such person as the case may be.

The expression "Collateral Successor" shall mean such Person, not being Issue of the Limited Owner, as shall be beneficially entitled under the Settlement to the Possession or Receipt of the Rents and Profits of the Land, in Defeasance or on Determination of the Estates of the Limited Owner and his Lineal Suc-

cessors.

The expression "Corporate Owner" shall mean any Body Corporate, any Corporation Sole, Ecclesiastical, or Lay, any Trustees for Charities, and any Commissioners or Trustees for Ecclesiastical, Collegiate, or other Public Purposes entitled, at Law or in Equity, to any Lands for an Estate in Fee-Simple or Fee-Farm, or for Lives or Years renewable for ever, or for an Estate or Interest renewable for a Term of not less than Sixty Years, or for a term of years of which not less than Sixty are unexpired.

The word "Tenant," as employed in the Third Part of this Act, shall mean an occupying Tenant from year to year, or at Will, holding under any Contract, or by Construction of Law; or an occupying Tenant holding under any Lease or Contract in Writing, granted after the passing of this Act, for a life or lives not renewable, or for a term of years and a life or lives, when the term of years has expired, or for any term of less than 31 years, and shall include

the Representatives and Assignees of such occupying Tenants.

This definition is nearly the same as that in the Government Bill of last session. It does not include tenants holding under leases or other written contracts now existing, or which shall have been entered into prior to the passing of this proposed Act. The uncertainty of the tenure renders it peculiarly important to include tenants for a life or lives among those who shall be entitled to the advantages of the part of this proposed Act which relates to tenants' improvements. The acceptance of a lease for thirty-one years may fairly be considered as implying that the tenant is satisfied that he can in that time recoup himself for any outlay which the farm may require; but when his tenure depends on the continuance of a particular life he has no such security. It is very undesirable that land should ever be let for farming purposes except for some fixed period of time.

The word "Improvements," as used in the first and third parts of this Act, shall comprise the works therein respectively specified.

# PART I.

# LANDLORDS' IMPROVEMENTS.

This part of the Act of 1860 is of great importance. It is similar in principle to an Act passed for Scotland in 1770, and known by the name of the "Montgomery Act," (10 Geo. III. chap. 51) which has proved of great value to that part of the United Kingdom. The object is to hold out facilities and inducements to land owners, who are only tenants for life under a settlement, to employ their own capital in the improvement of their estates, by enabling them to charge their successors with an annuity as compensation for any money expended in bona fide improvements. The Act of 1860 has been inoperative, owing probably to the complicated nature of the proceedings which it requires to be taken by the "limited owner." The provisions of the Government Bill of last session were much more simple than those of the Act of 1860, and it has been the aim, in drawing up this proposed Bill, to simplify them as much as possible, consistently with the necessary precautions to prevent fraud. It is an important public object to hold out inducements to the limited owner to expend his capital in the improvement of his estate, by affording him the utmost facility consistent with justice for charging his successor with a fair proportion of the amount expended.

III. The Word "Improvements," as used in Landlords' Improvements. this Part of this Act, shall comprise the following Works.

(1) The Main or Thorough Draining of Land:

(2) The Making of Roads or Fences:

- (3) The Reclaiming and Inclosing of Bog Land, and the Reclaiming or Inclosing of Waste Land:
- (4) The Execution of Works permanently providing for the Irrigation of Land.

Irrigation is enumerated among the Tenants' Improvements in Part III. of the Act of 1860. There seems no reason that it should not be also among those Improvements with which Limited Owners are enabled to charge their successors under the provisions of Part I.

- (5) The Reclaiming of Land from tidal or other waters:
- (6) The Protection of Land by Embankment from tidal or other Waters:
- (7) The Erection of Farm Buildings, or Houses for Labourers, Stewards, or other Persons employed in cultivating or superintending the Cultivation of Land:
- (8) The Renewal or Reconstruction of any Pre-existing Works of the Character aforesaid, or such Alterations therein or Additions thereto, not being mere Repairs, as shall permanently increase their Value:

(9) The Building of a Mansion House or Offices, or the Repairing or Enlarging of a Mansion House or Offices:

The building of a Mansion House or Offices was not in the list of improvements provided for by the Act of 1860, but was proposed to be added by the Government Bill of last year. This addition to the "Landlord's Improvements" will probably be approved by everyone. If it have any effect in inducing even the occasional residence of some of the absentee proprietors, it will be very useful. Any attempt at compulsion is out of the question; but it is very much to be wished that power might be taken, in the family settlements of the

estates of some of the large proprietors, to separate the Irish from the English property, and thus, in many cases, create two wealthy, and it may be noble, families in place of one. To say that the estates of some absentee proprietors are well managed is beside the mark. The estates of many resident proprietors are at least as well managed. There are local duties attaching to property the non-performance of which is seriously felt. The Queen's speech, when closing last session of Parliament, thus refers to this subject: "Her Majesty is "aware that, in returning to your respective homes, many " of you have duties to perform hardly less important than "those which belong to you in your legislative capacity. "Her Majesty places full reliance on the loyalty and devo-"tion with which you will discharge those duties; and her "Majesty earnestly prays that your influence and efforts " may, under the blessing of Divine Providence, tend to the "general welfare, prosperity, and contentment of her people." How can these duties be properly performed in Ireland? The resident gentry are in many places so few, that it is difficult to find suitable persons to fill the office of magistrate, even though the choice of the Government descends much lower in the social scale than it does in England. We are in truth attempting to work aristocratic institutions without an aristocracy, and expecting loyalty to a Sovereign of whom the great bulk of our people know nothing, except as the resident of what they consider a foreign country.

(10) The Forming of Plantations of Oak, Ash, Elm, Beech, Fir, Alder, or other Timber Trees, when such Plantations are not intended for mere Ornament.

By including the Plantation of Trees among Landlords' Improvements, as above, it is not intended to interfere with the operation of the existing Acts for the encouragement of Planting, but to afford an alternative which may be more satisfactory in some cases. Section XXV. preserves all existing rights, whether statutable or otherwise derived.

Three Months' Notice of Improvement to be given to Successor. IV. Every Limited Owner, not being under any of the disabilities hereinafter mentioned, who intends to lay out Money on such Improvements in pursuance of this Act, shall, Three Calendar Months at least before he begins to execute the same, serve the first Lineal Successor who is not under the like disabilities, or if there should be no such Lineal Successor, the first Collateral Successor who is not under the like disabilities,

with a written or printed Notice in such form as the Court may from time to time prescribe. and shall lodge a Copy of such Notice in the Court: and the Court shall thereupon serve a Copy of such Notice on said Lineal or Collateral Successor.

This provision differs from that in the Bill of last session, in requiring notice to be served on the lineal successor, if of age and of sound mind, and only substituting the collateral successor when there is no lineal successor capable of giving his consent. The probability of the collateral successor succeeding is frequently so slight, that any notice served on him must be considered as being served on him as representing the successors generally, rather than for the preservation of his own interest: and it is submitted that the nearest successor who is capable of giving his consent is the proper person to receive such a notice.

V. The previous Sanction of the Court shall where Successor not be required for such Improvements as not apply for Injunction Order, aforesaid, in any case in which such Lineal or Application to the Court not Collateral Successor as aforesaid assents in writ-required. ing to the execution of the same, or in which, if he withhold a written assent, he does not, within One Calendar Month after the Receipt of the Notice from the Limited Owner hereinbefore prescribed, apply to the Court for an Order by way of Injunction to restrain the Limited Owner from the execution of the same.

VI. If the Place of Abode of such Lineal or on Application, the Court may Collateral Successor be not known, or be beyond authorise Substitute of Saustice. the Seas, or if the Lineal or Collateral Successor or Service out of be an Infant, or a Person of Unsound Mind, or a Married Woman who is not entitled for her separate use, or if it be doubtful who falls within the Description of Lineal or Collateral Successor, or if for any reason it be found difficult or impracticable to serve the Notice hereinbefore prescribed, it shall be lawful for the Limited Owner to apply to the Court for liberty to substitute service, or to effect service out of the Jurisdiction, or to dispense with service altogether;

tution of Service, its Jurisdiction.

and the Court upon such Application may make

such order as may appear just.

When Limited Owner is under Disability, Application to be made to the Court

VII. If the Limited Owner be an Infant, or a Person of Unsound Mind, or a Married Woman who is not entitled for her separate use, it shall be lawful for the Guardian, Committee, or Husband, as the case may be, of such Limited Owner to serve the Notice hereinbefore prescribed, and after the expiration of One Calendar Month from the date of such service, to apply to the Court for its sanction

to the Improvements therein specified.

On Application, the Court may make Improvement or Injunction Order

VIII. On every such Application and on every Application for an Order by way of Injunction, as hereinbefore provided for, the Court shall make such Inquiries as it thinks proper as to the Circumstances of the settled Estate, and the Improvements intended to be made thereon, and shall sanction or disallow the proposed Improvements in whole or in part, and shall fix the Amount of Expenditure to be allowed for or in respect of the same, and shallmake an Order specifying the Improvements so sanctioned, and the Amount so allowed to be expended thereon; and the Limited Owner, upon the making of such order, may proceed to execute the Improvements therein sanctioned, at an Expense not exceeding the Amount therein specified.

The Successor to have Liberty to inspect the Execution of Improvements.

IX. The Lineal or Collateral Successor, or the Person substituted for such Lineal or Collateral Successor by the Court shall, during the Progress of such Improvements as aforesaid, have full Power by himself or by any Person authorized by him in Writing to inspect the same, and for that purpose, at all reasonable hours, to enter upon the Lands on which such Improvements are in process of execution.

X. Every Limited Owner who lays out Money in making such Improvements as aforesaid shall, every Six Months, lodge in the

Accounts of Expenditure and Final Statement to be lodged in

Court an Account of the Money expended by him in such Improvements during the Six Months preceding, subscribed by him or his known Agent; and on the completion of such Improvements shall lodge in the Court a compendious Statement, referring to such Accounts, of the whole Expenditure incurred in making such Improvements, verified in such manner as the Court may direct.

XI. The Court shall retain the Notices, State- The Court to keep a Record of Noments, Accounts, and Vouchers required by tices, Statements, and Accounts, this Act, and shall keep a Book or Books of reference thereto, which may be inspected without payment of any fee by any person interested, and shall give certified Copies of or Extracts from all Notices, Statements, Accounts, and Vouchers so recorded, upon payment of the fees payable in respect of copies of documents

in the Court.

XII. Every Limited Owner having expended One Month's No-Money in such Improvements as aforesaid, and to apply for Charging Order intending to apply for a Charging Order under to be given to successor. the Provisions of this Act, as hereinafter provided, shall serve the Lineal or Collateral Successor, or the Person substituted for such Lineal or Collateral Successor by the Court, with a Notice of such intended application, in such form as the Court may from time to time prescribe, and after the expiration of One Calendar Month from the date of such Notice may apply to the Court for such Charging Order.

XIII. On every application for a Charging on Application the Court mey order, the Court shall hear the Lineal or Colla. Order, and Order, and teral Successor, or the Person substituted for the with Annuity Lineal or Collateral Successor, objecting that payable to Limited Owner the Provisions of this Act have not been com- or his Nominee. plied with, or that the Improvements have not been properly executed, or that the Money stated to have been expended has not actually been expended in such Improvements, and if no appear-

Order, and

ance is made on behalf of the Lineal or Collateral Successor the Court may require proof that the Provisions of the Act have been observed, and may direct Inquiries to be made as to the Execution of the Improvements and the Expenditure thereon, and may, if it think fit, disallow the whole or any portion of the Expenditure: but if satisfied that the whole or any portion of the Expenditure ought to be allowed, the Court shall make an Order specifying the Amount or Expenditure allowed, and Charging the Lands on which the Improvements have been made, or such portion thereof as it shall think fit, with an Annuity for every One Hundred Pounds of such Expenditure, and in proportion for any lesser Sum, to commence from the Date of the Order, and to be payable on each Anniversary of such Date to the Limited Owner, or to any Person nominated by the Limited Owner,\* their Executors, Administrators, or Assigns respectively, of the amount and for the terms following; that is to say: of the Amount of £7 16s. 2d. for the term of 21 years in respect of the Improvements numbered (1) in Section III. of this Act; of the Amount of £6 8s. 3d. for the term of 31 years in respect of the Improvements numbered (2), (3), and (4); of the Amount of £5 15s. 8d. for the term of 41 years, in respect of the Improvements numbered (5), (6), (7), and (8); and of the Amount of £5.5s. 4d. for the term

<sup>\*</sup> It is submitted that, under the provisions of this Part of the proposed Act, a limited owner, who may not choose to expend his own money in making the improvements which he may yet think it desirable to have made, can contract with his tenant, whether holding by a lease or from year to year, for the execution of any of the improvements enumerated, and can nominate the tenant as the person to whom the annuity under the Charging Order shall be made payable. The tenant may then deduct the annuity from his rent so long as he remains in possession.

of 61 years, in respect of the Improvements numbered (9) and (10) in the said Section.

The bill of last session fixed an annuity of £7 2s. for 25 years in all cases. It is submitted that the annuity ought to vary according to the nature of the improvements, the duration being greater when the improvements are of a permanent character. The annuities proposed above are calculated so as to repay principal and interest in the several periods stated, calculating interest at 5 per cent. per annum.

XIV. Provided always and be it enacted that The Amount of Annuities to be the aggregate Amount of Annuities charged in charged not to respect of Improvements under this Act shall the Annual Value not, when taken together with any Rent-charges after Deduction of Rent-charges. charged or to be charged on the Land, under the Provisions of the several Acts to facilitate Drainage or the Improvement of Landed Property in Ireland, exceed One Half Part of the annual Value at which the Lands are rated under the Laws for the Relief of the destitute Poor in Ire-.land: and it shall be the Duty of the Court, before making an Order charging an Annuity under this Act, to ascertain the Amount of Annuities, if any, theretofore charged on the Lands under this Act. and the Amount of any Rent-charges charged or to be charged on the said Lands under the said Acts, and to provide that this Limit is not exceeded, but no Order charging an Annuity under this Act shall be afterwards invalidated by reason of such Excess.

The Act of 1860 fixed the limit at one-third of the annual value as rated for Poor Law purposes. A higher limitation is here proposed, in order to give still greater facility for the outlay of money by landowners for the improvement of their estates.

XV. Provided also and be it further enacted Charging Order that in cases wherein it shall appear to the Court that the Provisions of this Act have not been literally complied with, it shall be lawful for the Court, in case it shall be of opinion that those Provisions have been substantially complied with, to make any Charging Order under this Act, subject to such conditions as it may think proper to impose.

exceed one-half

when the Act has been substantially complied with.

Assignees of Bankrupt or Insolvent Owner may obtain Charging Order. XVI. If any Limited Owner shall become a Bankrupt or Insolvent, after he has obtained an Order sanctioning any Improvements, but before he has obtained an Order charging the Lands as is hereinbefore mentioned, his Assignee may complete the Improvements at the Expense of the Estate of such Bankrupt, or Insolvent Owner, and thereupon said Assignee shall be entitled to obtain such Charging Order as such Owner would have been entitled to, if he had not become Bankrupt or Insolvent; Provided always that if such Assignee shall decline to complete the Improvements, he shall not be entitled to claim any Compensation for the monies already expended thereupon.

Successor may obtain Charging Order when Limited Owner dies during Progress of Works,

XVII. If any Limited Owner shall die after he has obtained an Order sanctioning any Improvements, but before such Improvements have been completed, it shall be lawful for the Successor, if he shall think fit, to complete the same, having first repaid to the Personal Representatives of such Limited Owner the amount expended by such Limited Owner thereupon: and on the completion of the same the Successor shall be entitled to obtain such Annuity and Charging Order as the Limited Owner would in the like case have been entitled to obtain; but if the Successor shall not think fit to complete such Improvements, or shall decline to repay the amount expended as aforesaid, it shall be lawful for the Personal Representatives of such Limited Owner, if they shall think fit, to complete the same at the expense of the Estate of such Limited Owner, and upon the completion of the same, such Personal Representatives shall be entitled to obtain such Annuity and Charging Order as aforesaid: Provided always that if such Personal Representatives shall decline to complete such Improvements, they shall not be entitled to claim any Compensation for the monies already expended thereupon.

XVIII. Every Order made pursuant to this Charging Order to be conclusive ct under the Seal of the Court, charging an Evidence of Compliance with Act under the Seal of the Court, charging an Annuity on any Lands, shall be, both at Law the Provisions of the Act. and in Equity, conclusive Evidence that all Notices, Acts, and Proceedings by this Act directed with reference to the obtaining such Order or the making such Charge have been duly served, done, and taken, and that such Charge has been duly created, and is a valid Charge on the Lands declared in such order to be subject thereto.

The Government Bill of last Session contained a clause giving power to the person who might succeed to the estate on the death of the "limited owner," to object to the amount of the charge which might have been created, and require the Court to reconsider its order in this respect. It appears to me that the decision of the Court, made at the time, and after obtaining all the information which the Court considered necessary, and after hearing the objections, if any, which the lineal or collateral successor may have made, ought to be final, so that the limited owner should be able to dispose of the annuity charged in such manner as he may think best, whether for his own benefit or for that of his family.

XIX. If the Lands on which such Annuity Annuity charged shall be charged as aforesaid, shall be Lands re- cord to be Recorded under the Record of Title Act (Ireland) 1865, the Recording Officer shall record such Annuity as a Charge pursuant to the last-mentioned Act, and shall upon request deliver to the Limited Owner a Certificate of Charge in manner thereby directed, and such Charge, when recorded, may be assigned, settled, dealt with, or affected as therein mentioned.

XX. If the Lands on which such Annuity Annuity charged on Lands not of as aforesaid shall be charged shall not be Lands Record to be Registered. recorded as aforesaid, the Judge who has made a Charging Order under this Act, shall execute a Duplicate thereof under the Seal of the Court, and the Person applying for such Order may cause such Duplicate to be registered in the Office for the Registry of Deeds in the City of Dublin, and the Registrar of the Registry Office,

on Lands of Recorded.

his Assistant Deputies, and other Officers, shall be required to register the same in the same Manner as Memorials of Deeds are registered in the said Office, and to enter such Duplicate in the Books and Indexes of or relating to Memorials registered and kept in the said Office, subject to the Payment of such Fees as may be lawfully demanded.

Annuity to have Priority as of Date of Record or Registration. XXI. Every Annuity created by this Act shall have Priority as of the Date of its Record or Registration, as the case may be, and before the Estate of any Successor to the Lands.

And to be recoverable as Titherent Charge.

XXII. Every Annuity created in pursuance of this Act shall be recoverable in the manner in which Rentcharges in lieu of Tithes are recoverable in *Ireland*.

But no Arrears to be recoverable after the Expiration of One Year from the Date of falling due.

XXIII. Provided always and be it enacted that no Arrears of any Annuity charged on Land in pursuance of this Act shall be recoverable against such Land after the Expiration of One Year from the Date at which the Sum in arrear first became due; and as between Parties having successive Interests in any Land so charged, (but subject and without prejudice to the foregoing Provisions restraining the Recovery of Arrears) it shall be the Duty of the Party for the Time being in possession or in Receipt of the Rents and Profits of such Land to prevent such Arrears from arising, and if he make Default in doing so, and if the Party next entitled in possession pay any Arrears caused by such Default, the Amount so paid shall be a Debt due to the Party who has paid the same from the Party by whose Default it became necessary to make such Payment.

Improvements to be maintained by Limited Owner. XXIV. All Improvements in respect of which an Annuity is payable under this Part of this Act shall, during the Continuance of the Estate of the Limited Owner, be maintained by him in a proper State of Repair, and any subsequent Owner of the Land charged with such Annuity may, by action in the Superior Courts of Common Law, recover from the Representatives of such Limited Owner any Damages sustained by reason of the Noncompliance of the Limited Owner with the Provisions of this Section.

XXV. All Rights conferred on a Limited by the Act to be Owner by this Act shall be deemed to be in Existing Rights. addition to any other Rights, whether statutable or otherwise, which any such Owner may possess, and every such Owner may exercise such other Rights in the same manner as if this Act had not been passed.

## PART II.

#### LEASING POWERS.

The object of this part of this proposed Bill is to afford increased freedom for contracts between landlord and tenant for the improvement of the tenant's holding, by doing away with the necessity for the notices and other proceedings which are required by the act of 1860 (23 & 24 Vict. chap. 153), and also by giving increased powers for improvement and building leases, and better security to the tenant for the perfect validity of any contract made with the ostensible owner of the property.

It is supposed that, under the arrangements here contemplated, landlords, although "limited owners," could enter into contracts with their tenants in the far greater number of the cases likely to arise, without the intervention of any third party; and, in complicated cases, or when a term of unusual length was found to be desirable, the sanction of the Court would enable them to act. It is submitted that the interests of landlord and tenant are sufficiently separate to afford all needful protection to the remainder-man. Any collusion between landlord and tenant would of course invalidate the contract. It is impossible wholly to guard against fraud, and the attempt to do so does more harm by fettering honest industry than the safeguard is worth.

XXVI. Any Limited or Corporate Owner of Corporate Shall have power to grant Agricultural Leases, Owner to grant Leases.

Improvement Leases, Building Leases (including under the Term "Building Leases" Repairing Leases), for any Term of Years, absolute, or determinable at fixed Periods, subject to the following Restrictions:

The Government Bill of last session required notice to be served on the successor before granting any improvement or building lease. This restriction is surely unnecessary, and it would be frequently inconvenient in practice. The "limited owner" may safely be trusted to do the best he can for his own interest and that of his successors, without having to obtain their consent to every contract with a tenant for the improvement of his farm. The Act of 1860 required the sanction of the Chairman of the Quarter Sessions, or of a Judge of the Landed Estates Court, for every improvement lease. The proposed lease was to be submitted to the Court, "with " such particulars as may be required for the purpose of ens-"bling it to decide on the propriety of giving its sanction," and the Court was then to make enquiries, to serve notices, to hear all persons who might apply; and, finally, if it approved of the proposed lease, to sanction it, and to make such order respecting the costs "of the application as shall seem to "it to be just." It scarcely needed a Select Committee of the House of Commons to find out why no improvement leases were granted under the provisions of this Act.

Terms for which Leases may be granted. (1) No Mansion-House or Demesne Lands shall be leased under this Act for a longer Period than the Life of the Limited Owner and Six Calendar Months after his Decease, or for a longer Period than his Minority, if he be an Infant at the Time of the making of the Lease.

(2) The Term of an Agricultural Lease shall not exceed Thirty-one Years, that of an Improvement Lease shall not exceed Sixty-one Years, that of a Building Lease shall not exceed One Hundred and Fifty Years.

The leasing powers proposed to be given in the Bill brought in by Mr. Napier, when Attorney-General under the Earl of Derby in 1852, and which received the assent of the House of Commons, were nearly the same as the above Mr. Napier thus describes them, when moving for leave to bring in the Bill. "For agricultural purposes it was pro"posed to grant leases for thirty-one years; for the improve-

nent of waste lands, leases for sixty-one years; for the orking of mines, leases for forty-one years; for private uildings, leases for ninety-nine years; and for public edices and public purposes generally, leases for nine hundred nd ninety-nine years." (Hansard, vol. 123, p. 324.) I e proposed one hundred and fifty years for building leases, ause in many cases that length of lease is desirable for the provement of the property, and because I am aware that 3 the term for which powers have been taken in the deed

ettlement of some large estates.

some will object to the term of thirty-one years as being lesirably long for an agricultural lease, and it may readily granted that leases for twenty-one years are preferable. en the land leased is really prepared for a farm, by ring a good homestead suitable to its extent, and proper indary and other fences. But where these are wanting, s too often the case in Ireland, a term of thirty-one years short enough. At any rate this clause is only enabling, I the power to grant agricultural leases for thirty-one years s not oblige any landlord to grant leases of this length, if think it not his interest to do so.

(3) Every Lease shall take effect in Pos- Every Lease to take effect in session, or within One Year after the Possession, and Execution thereof, and there shall be reserved thereby the best yearly Rent, to be incidental to the immediate Reversion, that can reasonably be obtained, without taking anything in the Nature of a Fine, Premium, or Foregift: Provided always that in the case of an Improvement Lease, or of a Building Lease, the best Rent that can reasonably be obtained shall be estimated with reference to the length of the Term granted by the Lessor and the Improvements covenanted to be made by the Lessee; and that a Peppercorn Rent or any Rent smaller than the Rent to be ultimately made payable may be reserved during all or any Part of the first Five Years of the Term granted by such Leases.

(4) Every Lease shall contain or imply the Covenants and Conditions to be following Covenants and Conditions:—

(a) A Covenant for the due Payment of Lease.

the Rent reserved, and a Condition of Re-entry in case of the Non-payment of the same for a period of Twentyeight Days after it becomes due.

(b) A Covenant against Subdividing or Subletting, without consent of Lessor, except when there is an express Covenant that the Lands may be Subdivided or Sublet.

(c) A Covenant against Voluntary or Permissive Waste.

(5) Every Agricultural Lease shall contain or imply the following Covenants on the part of the Lessee, his Heirs, Executors, Administrators, and Assigns:-

> (a) To manage, till, and use the Lands demised in due and regular Course of

good Husbandry.

(b) Not to burn or permit to be burned any Part of the Soil or Surface of the Lands demised, without the previous Consent in Writing of the Landlord.

(c) Not to Assign without the Consent of the Lessor, to be signified by his Execution of the Deed of Assignment.

When the tenant adds a value to the holding by the expenditure of capital under an improvement or a building lease, it is certainly right that he should have full liberty to sell or otherwise dispose of his interest in the lease as he may wish; but in an agricultural lease, where, in general, no increase of value takes place, except through the ordinary operations of husbandry, or from the general improvement of the country, it is only reasonable that no person should be substituted for the original tenant, except with the approval and consent of the landlord. This would not of course affect those cases in which the tenancy, on the death of the original tenant, devolves on his Personal Representative by operation of law.

Lessee's Covenants in Improvement Leases.

(6) Every Improvement Lease shall contain a Covenant on the part of the Lessee, his heirs, executors, administrators, and assigns. To expend upon Works defined to be

Lessee's Covenants in Agricul tural Leases.

Improvements in the third part of this Act, which shall be specified in the Lease, and within a Time which shall also be specified therein, a Sum equal at the least to five times the Rent thereby reserved.

(7) Every Building Lease shall contain a Cove- Lease's Covenant on the part of the Lessee, his Heirs. Leases. Executors, Administrators, and Assigns.

To expend upon the Buildings which shall be specified in the Lease, and within a Time which shall also be specified therein, a Sum equal at the least to twenty times the Rent thereby reserved.

(8) The Lessee shall execute a Counterpart a Counterpart of of every Lease, but the Execution of any Lease by the Lessor shall be deemed sufficient Evidence that a Counterpart of such Lease, as required by this Act, has been executed by the Lessee.

XXVII. If the Limited Owner be an Infant, or inder Disability, Person of Unsound Mind or a Married Wo. Application to be a Person of Unsound Mind, or a Married Woman who is not entitled for her separate use, it shall be lawful for the Guardian, Committee, or Husband, as the case may be, of such Limited Owner, to apply to the Landed Estates Court for authority to exercise the Powers conferred on a Limited Owner by this Act; and the Court shall have power to grant such application.

XXVIII. Wherever it may be deemed desira- court on Application may auble that any Lease to be made in pursuance of this thorise longer Terms. Act should be made for a Term longer than is hereinbefore provided, it shall be lawful for the Limited or Corporate Owner to apply to the Landed Estates Court; and the Court, by its Order made on such application, and upon Notice to such Person or Persons as it shall think fit, may authorize the granting of such longer Term as it shall think proper.

made to the

Manufacturing Leases to be made on Application to the Court. XXIX. Wherever any Limited or Corporate Owner shall desire to grant a Lease of any Water-power or Water-site, or any quantity of Land for the purpose of erecting or extending any Mill, Factory, Warehouse, or other Building for Manufacturing or Commercial purposes, or whenever such Owner shall desire to grant a Lease for the purpose of working Mines or Quarries, it shall be lawful for such Owner to apply to the Court, and the Court, by its Order made on such application, and upon Notice to such Person or Persons as it shall think fit, may authorize such Lease with such Covenants and Conditions as it shall think proper, and for any Term of Years, or in perpetuity.

Provisions for a similar purpose have already been enacted by the Irish and by the Imperial Parliament (see 25 Geo. III. chap. 62 (Irish) and 14 Vict. chap. 7), but they are not sufficient to meet the enlarged wants of the present time. Many instances could be adduced in which the establishment of manufactures has been impeded by the want of a sufficient term of lease to warrant the outlay of money in suitable buildings. Mr. Napier's Bill in 1852 proposed the term of "nine hundred and ninety-nine years for public edifices and public purposes generally," and in his speech he gave instances to prove the necessity for this long tenure. The public interest requires that every facility should be afforded to manufacturing and commercial enterprise in Ireland.

Court on Application may authorise Leases not authorised by the exact Terms of any Act or Settlement.

XXX. Where a Power to make Leases by virtue of this or any other Act of Parliament, or of any Settlement, shall, in any particular case, be incapable of being exercised by reason of any Variation in the Circumstances necessary to bring the case within the exact Terms of the Act or Settlement, the Landed Estates Court may, by an Order on the application of any Person interested in the Matter, and upon Notice to such Person or Persons as the Court shall think necessary, authorize the Donee of the Power contained in such Act or Settlement to make a Lease, not-withstanding any Variation which the Court

Manufacturing Leases to be made on Application to the Court. XXIX. Wherever any Limited or Corporate Owner shall desire to grant a Lease of any Water-power or Water-site, or any quantity of Land for the purpose of erecting or extending any Mill, Factory, Warehouse, or other Building for Manufacturing or Commercial purposes, or whenever such Owner shall desire to grant a Lease for the purpose of working Mines or Quarries, it shall be lawful for such Owner to apply to the Court, and the Court, by its Order made on such application, and upon Notice to such Person or Persons as it shall think fit, may authorize such Lease with such Covenants and Conditions as it shall think proper, and for any Term of Years, or in perpetuity.

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shall consider not to involve a substantial Departure from the Intention of such Act or Settlement; and every Lease made in pursuance of any Order of the Court in that behalf shall be as valid as if the case had been within the exact Terms of the Act or Settlement.

XXXI. In the absence of Fraud every Lease Leases made in pursuance of this Act shall, so long act to be valid act to be valid as the Covenants and Conditions on the Lessee's against all Persons whatsoever. part are performed and observed, be valid against all Persons whatsoever; but the Rent therein reserved shall be subject to the Uses, Rights, and Liabilities to which the Lands comprised therein would have been subject had no such Lease been made; Provided always that no Lease granted by an Owner who is himself a Lessee shall continue after the Expiration of the Term granted by such Owner's Lease, and that nothing herein contained shall be deemed to enable any such Owner to grant any Lease which, by virtue of any Covenant or Agreement with his Lessor, he is precluded from granting.

The object of this clause is to give full security to the tenant for the validity of whatever lease the landlord may grant, or whatever contract he may enter into, by rendering it good not only against the limited owner, but also against mortgagees and other incumbrancers. There is no reason for requiring the consent of the mortgagee to a contract which, by promoting improvements, may increase his security, but which cannot lessen it unless it be fraudulent, in which case it is, of course, void. Few landlords will permit enquiry into their titles, so that, under present circumstances, the tenant cannot have any real security for the validity of the lease.

XXXII. Any Limited or Corporate Owner Limited or Corporate shall have power to accept the Surrender of any Lease, whether granted under this Act or not, ders. when not more than Five Years of the Term created by such Lease shall be unexpired; and the power to grant Leases conferred by this Act shall extend to the granting of new Leases of

the whole or any part of the Lands comprised in any Surrendered Lease.

It is very important that there should be no difficulty for a landlord to take a surrender of a lease two or three years before it expires, for the purpose of granting a new one; as, by so doing he may prevent the very injurious but too common practice of exhausting the land just before the termination of the tenancy.

Limited or Corporate Owners to have Power to Contract with Lessee without accepting Surrender of the Lease.

XXXIII. If there be any subsisting Lease, whether granted under this Act or not, which for any reason it is inexpedient to surrender, the Limited or Corporate Owner may enter into a Contract with the Lessee for the execution by the Lessee of such Improvements as might be contracted for under an Improvement Lease made in pursuance of this Act, and in such Contract may covenant with the Lessee for the continuance of his Tenancy after the Expiration of the subsisting Term; and such Contract, when reduced to writing and signed by the parties thereto, shall have the same validity as an Improvement Lease granted in pursuance of this Act: Provided always, that the additional Term, which shall be specified in such Contract, shall not exceed the Term of Sixty-one Years from the date of the Contract, and that the Rent to be reserved for such additional Term shall not be less than the full letting Value of the Lands at the same Date.

Such Contract to be Recorded or Registered. XXXIV. Provided also and be it enacted that every such Contract shall be Recorded or Registered in the Office for the Record of Title or in the Office for the Registry of Deeds in the City of Dublin, according as the Lands thereby affected are Recorded under the Record of Title Act (Ireland), 1865, or not, and that for the purposes of such Record or Registration such Contract shall be considered as a Charge or a Conveyance as the case may be.

It is evident that the power of making contracts, as regards improvements, should not be limited to the time at which the

lease is agreed for; it frequently | pens that sity for an outlay or capital in improvements or alterations is not so clearly seen until after the tenant has entered into ossession.

XXXV. All Powers conferred on a Limited by the Act to be or Corporate Owner by this Act shall be deemed in addition to Existing Powers. to be in addition to any other Powers, whether statutable or otherwise, which any such Owner may possess, and every such Owner may exercise such other Powers in the same manner as if this Act had not been passed.

# PART III.

# TENANTS' IMPROVEMENTS.

The Act of 1860 extended the provisions of Part III not only to "tenants from year to year, or at will," but also to ' tenants holding under a lease for any term of years of which " not more than twenty-five are unexpired." The definition of the word "Tenant" given in section 2 of this proposed Act will therefore appear to some persons to be a restriction upon the existing law. This restriction however is only apparent, for the Act of 1860 had but little effect beyond validating an agreement for compensation; while the object of this part of the Act now proposed is to afford compensation to the tenant for improvements effected in the absence of any specific contract.

XXXVI. This Part of this Act shall only Application of this Part. apply to Land let for Agricultural Purposes.

XXXVII. The Expression "Improvements," Tenants' Improvements. as used in this Part of this Act, shall comprise the following Works:-

- (1) The Main or Thorough Drainage of Lands:
- (2) The Making of Farm Roads or Fences:
- (3) The Reclaiming and Inclosing of Bog Land, and the Reclaiming or Inclosing of  ${f Waste\ Land:}$
- (4) The execution of Works permanently providing for the Irrigation of Land:

(5) The Reclaiming of Land from Inland Waters or the Permanent Protection of

Land against the same:

(6) The Erection of a Farmhouse or Farm Buildings suitable to the Holding, or the enlarging or the extending of any Farmhouse or Farm Building already erected thereon, so as to render the same more suitable to the Holding:

(7) The Renewal or Reconstruction of any pre-existing Works of the character aforesaid, or such Alterations therein or Additions thereto, not being mere Repairs, as shall permanently increase their Value.

Limited Owner to have Power to ments with Tenant or Lessee for Execution of Improvements.

XXXVIII. Any Limited Owner may enter enter into Agree into an Agreement with any Tenant or Lessee for the Execution by such Tenant or Lessee of any such Improvements, and for securing to such Tenant or Lessee Compensation for the same; and on the completion of such Improvements, the Tenant or Lessee shall lodge with the Clerk of the Peace a Declaration in manner hereinafter provided with respect to Improvements not executed in pursuance of an Agreement: and such Declaration shall be Evidence in like manner as the Declarations hereinafter mentioned, and it shall not be necessary for any Purposes that such Agreement should be Stamped; and the Landlord shall not be permitted to dispute such Declaration, except by Proof that the Works have not been effected in conformity with said Agreement.

> This clause will enable the landlord and tenant to agree beforehand as to the work to be done and the amount of the expenditure; and will, also, with the landlord's consent, extend the provision of this part of the proposed Act to tenants who would otherwise be excluded by the definition of the word "tenant" as given in Section II.

XXXIX. Subject to the Provisions hereinafter contained, every Tenant as hereinbefore de-

Tenant to have Power to execute Improvements in absence of Agree ment.

d may, unle re raised by Writen Contract plating the Terms of his Tenancy, execute such Improvements; and upon the deteration of his Tenancy, shall be entitled, by way Compensation for his Outlay, to a Sum of ney to be ascertained and limited in manner einafter mentioned.

bjection has been made to this, because it entitles the at to compensation for improvements made by him out the consent of his landlord having been previously If the claim of the tenant were to be based on the int expended, irrespective of the value of the improvets when executed, the landlord's previous consent would inly be necessary; but as the tenant's claim is to rest on ctual increase in the letting value resulting from the imements effected, as subsisting at the time of eviction, it ot inflict any injustice on the landlord to give the tenant al right to compensation. Unless the improvements are ble to the holding, they will not proportionately increase tting value. This will check extravagant outlay; and if andlord think the holding too small to warrant expendiin buildings, he has the power to prevent them from being a; and in any case the offer of a lease for thirty-one years bar all claims.

ne Earl of Derby's Bill of 1845 would have given the nt compensation in certain cases for improvements effected against the will of his landlord. If the landlord ted, the tenant might appeal to a Commissioner, and a Commissioner considered that the improvements were ired, the tenant would have been fully authorised to a them. This clause was strongly objected to in the se of Lords; but Lord Derby, then Lord Stanley, refused ive it up, as he said "he considered it most important the efficiency of the measure that the clause should be ned." This Bill passed the second reading.—Hansard, 81, p. 1146. (24th June, 1845.)

ne Bill which passed the House of Commons in 1852 was ar in this respect to the Bill of last session. Lord Naas describes it, contrasting its provisions with those of Lord ley's Bill above referred to. "The machinery of Lord unley's Bill was of a very complicated character, and such it would be very difficult to work out. It proposed that mmissioners and Assistant Commissioners should be approved for the purpose of determining whether the improvements contemplated by the tenant should be considered improvements or not, and it would render the tenant ble to ruinous litigation before he could begin any improvement. There was nothing of that kind in the pre-

"sent Bill. There were no preliminaries whatever, and it " would be perfectly competent to the tenant to commence his "improvements at once; and any litigation which arose at "all must arise when the landlord proposed to eject the "tenant at the end of his tenancy."—Hansard, vol. 123, p. 347.

Some persons, on the contrary, say this provision is useless, because it may be nullified by the landlord requiring the tenant to sign a specific contract, under section XL not afraid of its being improperly set aside. This may be done in exceptional cases, but not so often as seriously to impair its efficiency. Nine landlords in ten wish to act honestly, but they take the law as a guide for their conduct. The law is now unjust, for it gives every improvement to the landlord. Let the law recognise the ownership of the tenant in the improvements he has created, as this clause does, and the nine honest landlords will also recognise it.

But not to be entitled to Compensation when compellable to improve.

XL. Provided always and be it enacted that no Tenant shall be entitled to Compensation under this Act, for any Improvements which he may be compellable to make under any Written Contract regulating the Terms of his Tenancy.

This clause fully meets the objections which have been taken to the right of compensation for improvements effected without the landlord's consent having been first obtained. Whatever is necessary for the farm ought either to be done by the landlord himself, as provided for in Part I., or he should contract with the tenant to do them, under the leasing powers given in Part II., or under the power for special agreements given in Sect. XXXVIII. There will then be no room for any claim except for the value of unexhausted manures, &c. In fact one of the great merits of the proposed legislation is, that it will make it necessary for landlords to attend to their property personally, or to employ agents who will be something more than rent-collectors. A prudent landlord will take care that his agent shall be acquainted with the condition of every farm on the estate, and shall consider what may be required for its improvement; and further, that he shall have a written contract with every tenant, specifying what is to be done or to be left undone. This will no doubt impose a labour on many agents to which they have hitherto been quite unaccustomed.

Limit of Compensation.

XLI. Provided also and be it further enacted that no Claim for Compensation under this Act shall in any case exceed a sum equivalent to Five Pounds for each Statute Acre of the Hold-

Objection has been made to the limitation of compensa-

tion to £5 per acre. There is no doubt much land in Ireland on which considerably more than £5 per acre might be advantageously expended, and there are many holdings which require an expenditure of fully £10 per acre to place them in the condition in which a good farmer would consider they ought to be; but the provision for compensation under Part III. will generally refer to improvements where the expenditure has been comparatively small. Whenever a large expenditure is contemplated, there will always, I should expect, be a regular contract entered into, under the provisions of Part II.

XIII. Provided also and be it further enacted No Compensation that, at any time after the completion of such where Landlord Improvements as aforesaid, if the Landlord of Thirty-one shall grant and the Tenant shall accept Lease for the term of Thirty-one Years, or any longer Term, reserving the Rent then payable in respect of the Holding, and containing the usual Covenants and Conditions between Landlord and Tenant; or if the Landlord shall give a written Notice to the Tenant of his readiness to grant such Lease, and the Tenant within Three Calendar Months after the serving of such Notice shall not have given a written Notice to the Landlord of his readiness to accept the same; or if the Tenant shall not have executed the same when duly tendered to him for execution by the Landlord, such Tenant shall be debarred from making any Claim for Compensation for Improvements either then made or thereafter to be made by him upon his Holding.

XLIII. Every Tenant who has expended Tenant to lodge a Declaration with Money on Improvements for which he may be Clerk of the Peace. entitled to claim Compensation under this Act shall, within Three Calendar Months after their completion, lodge with the Clerk of the Peace a Declaration in the Form to be specified as hereinafter provided, having first paid such Fees as may be payable under the subsequent Provisions of this Act.

This notice to the Clerk of the Peace has been added to the Bill of last session, in order that the fact of such improve-

to be claimed tenders a Lease years to Tenant.

ments being made should be recorded, and their value ascertained, at a time when evidence on both these points is availa-To leave this until the termination of the tenancy would expose the parties to the risk of a lawsuit, at a time when it would be very difficult to procure evidence, in the event of any difference between the landlord and the tenant respecting the improvements executed, or respecting their value.

The Clerk of the Peace to retain and record all Declarations.

XLIV. The Clerk of the Peace shall retain all Declarations lodged with him under this Act. and shall keep a Book or Books of Reference thereto, which may be inspected without the payment of any fee by any Person claiming to be interested therein, and shall give certified Copies of or Extracts from the same, upon payment of the Fees payable in that behalf., as hereinafter provided.

And to transmit Copies to the Landlord.

XLV. The Clerk of the Peace shall, within seven days from the Lodgment of such Declaration as aforesaid, give Notice of such Lodgment, and Transmit a Copy of such Declaration, signed and certified by himself or his Deputy, to the

Landlord or his Agent.

Declaration to be conclusive when Landlord shall not dispute the same.

XLVI. If within Three Calendar Months from the date of such Notice and Transmission as aforesaid, the Landlord shall not dispute such Declaration, or shall not submit all matters in dispute in relation to the same to Arbitration. or apply for the appointment of a Valuator, as hereinafter provided, such Declaration shall be evidence of the execution of the Improvements therein alleged to have been made, and of the amount of Money therein alleged to have been expended.

Tenant to be at Liberty to lodge Amended Decla ration.

XLVII. Provided always and be it enacted, that if the Tenant shall be willing to modify his Declaration so as to meet the requisitions of the Landlord, it shall be lawful for him to lodge with the Clerk of the Peace an amended Declaration countersigned by the Landlord, and the Clerk of the Peace shall forthwith cancel the original Declaration, and retain and record the

amended Declaration in lieu thereof; and such amended Declaration shall be evidence of the facts therein stated or necessarily implied.

XLVIII. If the Landlord shall dispute the Power for Land-Execution or the Value of the Improvements in any Declaration alleged to have been made, it shall be lawful for him, within the period lastly hereinbefore limited, with the written Consent of the Tenant, to submit all Questions in Dispute between them in relation to such Improvements to the Arbitration of any Person or Persons whom they may select, and the Valuation of such Arbitrator or Arbitrators shall be reduced to Writing, and shall be subject to the like Regulations, and shall possess the same validity as any Valuation made by a Valuator, as hereinafter mentioned.

to submit Disputes to Arbitra-

XLIX. If the Landlord shall dispute the Landlord to apply for a Valuator Execution or the Value of the Improvements when Arbitration is declined. in such Declaration alleged to have been made, and if either the Landlord or Tenant shall decline to submit the Question in dispute between them to Arbitration, as hereinbefore mentioned, it shall be lawful for the Landlord, within the period lastly hereinbefore limited, to apply to the Commissioners for Public Works in Ireland for the appointment of a Valuator to ascertain the Execution and Value of such Improvements; and on such application the said Commissioners shall appoint such Valuator, and such Valuator shall immediately thereupon give notice to the Tenant of the fact of such appointment.

L. Every Valuator appointed under this Act Valuator to give Notice, hear Parshall, before he makes any Valuation under this ties, and inspect improvements. Act, give Notice of such intended Valuation to the Tenant, and to the Landlord or his known Agent, and upon the expiration of the time mentioned in such Notice shall hear all parties claiming to be heard before him, and shall receive such evidence as may be offered in behalf

of such parties, and shall personally examine the Improvements alleged to have been made, and shall thereupon set a value upon such Improvements; and in setting such value shall consider whether the Improvements (if any) are suitable to the Holding, and whether they have been executed in a workmanlike manner, and whether they could have been executed at a lower price than that alleged to have been expended thereon by the Tenant.

Valuator to make a written Valuation, and to lodge same with Clerk of the Peace. LI. The Valuator having ascertained and set a value upon the Improvements as aforesaid shall reduce his Valuation to Writing, and shall specify therein the Dates of his Appointment and Inquiry respectively, the Amount of his Valuation, and the Lands on which the Improvements have been made, and the Barony and County in which the same are situate, and the names of the Landlord and the Tenant, and shall lodge such Written Valuation with the Clerk of the Peace, who shall annex the same to the Tenant's Declaration, and shall record the same in the Book or Books hereinbefore directed to be kept, and such Valuation shall be evidence of the facts stated or necessarily implied therein.

Tenant served with Notice to Quit to serve the Landlord with Notice of Claim for Compensation.

LII. When any Landlord shall demand from his Tenant the possession of the Lands on which such Improvements, as aforesaid, shall have been made, or shall serve the Tenant with a Notice to Quit the same, the Tenant claiming Compensation for any unexhausted Improvements under this Act shall serve the Landlord with a Notice of such Claim, referring to the Declaration or Valuation, as the case may be, on which such Claim is founded, and shall lodge a Copy of such Claim with the Clerk of the Peace, who shall retain the same and record it in the Book or Books hereinbefore directed to be kept.

LIII. Provided always and be it enacted that no Tenant shall be entitled to claim

Except after a

"session of
ty-one Years
on the making
of the Improvenents.

Compensation for any Improvements under this Act who shall have been permitted to remain in undisturbed Possession of his holding for Forty-one Years after the making of such Improvements.

Section XLII. authorises the landlord to compound for any improvements previously made, and to bar all claims for future improvements, by the offer of a lease for 31 years; but if the tenant do not receive the certainty and the security which a lease confers, it is right that the compensating period should be longer. It is therefore proposed in this section to extend it to 41 years.

LIV. If within One Calendar Month from the Claim to be con service of such notice as aforesaid, the Land- Land- Landord shall lord shall not dispute such claim, or shall not same. submit all matters in dispute in relation to the same to Arbitration, or apply for a Valuator as hereinafter provided, such Claim shall be conclusive Evidence that the Tenant is entitled to the Amount therein demanded.

not dispute the

LV. Provided always and be it enacted that, if Tenant to be at the Tenant shall be willing to modify his Claim an Amended Claim. so as to meet the Requisitions of the Landlord, it shall be lawful for him to lodge with the Clerk of the Peace an amended Claim, countersigned by the Landlord, and the Clerk of the Peace shall forthwith cancel the original Claim, and retain and record the amended Claim in lieu thereof, and such amended Claim shall be conclusive Evidence that the Tenant is entitled to the Amount therein specified.

LVI. If the Landlord, served with Notice as aforesaid, shall dispute such Claim for Compensity Disputes to Arbitration. sation, it shall be lawful for him, within One Calendar Month from the Date of such Notice, with the written Consent of the Tenant, to submit all Questions in dispute between them in relation to such Claim to the Arbitration of such Person or Persons as they may select, and the Award of such Arbitrator or Arbitrators

shall be reduced to Writing, and shall be subject to the like Regulations, and shall possess the same Validity as an Award made by a Va-

luator, as hereinafter mentioned.

Landlord to apply for Valuator when Arbitration is declined.

LVII. If the Landlord served with Notice as aforesaid shall dispute such Claim for Compensation, and if either the Landlord or the Tenant shall decline to submit the Question in dispute between them in relation to such Claim to Arbitration, it shall be lawful for the Landlord, within One Calendar Month from the date of such Notice. to apply to the Commissioners of Public Works in Ireland for the appointment of a Valuator to ascertain the value of the unexhausted Improvements in respect of which the Tenant claims as aforesaid, and on such Application the said Commissioners shall appoint such Valuator, and such Valuator shall immediately thereupon give Notice to the Tenant of the fact of such appointment.

Valuator to give Notice, hear Par-ties, examine Declarations and Valuations, and inspect Improvements.

LVIII. Every Valuator so appointed shall, before he makes any Award under this Act, give Notice of such intended Award to the Tenant, and to the Landlord or his Agent, and upon the expiration of the time mentioned in such Notice, shall hear all parties claiming to be heard before him, and receive such evidence as may be offered on behalf of such parties, and shall examine all Declarations and Valuations retained and recorded as aforesaid, and shall personally examine the existing state of the Improvements in respect of which Compensation shall be claimed, and shall compare the present with the recorded value of the same, and shall take into account any diminution of the value of the Holding caused by the Act or Default of the Tenant in reduction of the Amount (if any) to be awarded to him by way of Compensation for Improvements as aforesaid, and on such In-

quiry the Valuator shall award to the Tenant such sum for Compensation as shall be equivalent to Fifteen Years' purchase of the increase in the Letting Value of the Holding due to such Improvements, at the time of the making of such Award.

LIX. The Valuator shall reduce his Award to Valuator to make writing, and in such written Award shall specify and lodge same with Clerk of the the Amount awarded, and the Lands on which Peace. the Improvements have been made, and the Barony and County in which the same are situate, and the names of the Landlord and Tenant of the same, and shall within Forty-Eight Hours of the making of such Award give Notice thereof to the Landlord and the Tenant. and shall lodge the Original of such written Award with the Clerk of the Peace, who shall retain the same and record it in the Book or Books hereinbefore directed to be kept, and such Award, if unappealed from, shall be conclusive evidence of the facts stated or necessarily implied therein.

LX. In case either the Landlord or the Landlord and Tenant shall be dissatisfied with such Award, it liberty to appeal shall be lawful for the Party so dissatisfied to valuator, to the appeal against the same to the Chairman of the County, or if such Chairman be himself a Party interested, to the Chairman of any adjoining County; and the Party so appealing shall give to the opposite Party Ten Days Notice of his intention to appeal; and such Appeal shall be set down for hearing at the next Quarter Sessions to be holden by the Chairman before whom the same is to be heard, unless a shorter Period than Twenty Days shall intervene between the Notice of the making of the Award and the holding of such Sessions, in which case the Appeal shall be brought to the next subsequent Sessions; and such Appeal shall be heard by such Chairman without a Jury, upon such Evidence as

Tenant to be at

may be brought before him, and thereupon he shall confirm or vary such Award, and his Decision shall be final; and his Decree shall be conclusive evidence of the facts stated or necessarily implied therein.

Copy of the Decree of the Chairman to be lodged with the Clerk of the Peace.

LXI. The Chairman shall sign and certify a Copy of such Decree, and the Party in whose favour such Decree shall have been made shall, within *One Month* after the Date of such Decree, lodge such Copy with the Clerk of the Peace, who shall annex the same to the original Award, and record the same in the Book or Books hereinbefore directed to be kept.

Compensation to be set off against Rent, and Possession to be retained till Compensation paid. LXII. The Amount of Compensation awarded to the Tenant as aforesaid shall be set off against any Claim for Rent, and the Tenant shall be entitled to retain the Possession of the Lands upon the Terms of his Tenancy, until the Amount of the Compensation so awarded, after deducting thereout any Rent due to the Landlord, shall have been paid, tendered, or secured to the satisfaction of the Tenant.

Limited owner paying Compensation, to be entitled to Annuity or Fine upon a Lease.

LXIII. Any Limited Owner, who shall pay his Tenant the Compensation so awarded, shall have a Charge upon the Lands comprised in such Tenancy of an Annuity of £6 8s. 3d. for every One Hundred Pounds so paid, and in proportion for any lesser Sum, for the term of Thirty one Years, to commence from the Date of Payment, and to be payable on each Anniversary of such Date to him, his Executors, Administrators, or Assigns; or such Owner may, at his option, make a Lease of the same Lands in manner hereinbefore provided; and if he make such Lease, it shall not be invalid by reason of such Owner taking from the Tenant or succeeding Tenant, as a Fine, the Amount so paid for Compensation as aforesaid.

#### PART IV.

### GENERAL PROVISIONS.

LXIV. Nothing in this Act contained shall be Rights of Outgoconstrued so as to prejudice any Usage or Custom ing and Incoming Tenants. existing in any Part of Ireland in relation to the Rights of Outgoing or Incoming Tenants.

LXV. Whenever any Lands, on which the Court to be at liberty to grant Usage or Custom of Tenant Right exists, and Leases when Lands subject to has been recognized by the Landlord, shall be Tenant Right are sold. sold, either in the Landed Estates' Court or the Court of Chancery, it shall be lawful for the Court, in its discretion, to grant Agricultural Leases for a Term not exceeding Thirty-one Years, to all Tenants on the Lands who do not hold under a written Lease or Agreement for a Lease.

Objection may be made to this proposition, as interfering with the rights of property, but it is submitted that the owner of an estate on which the custom of tenant-right has been recognised will always have full power, if he think right to do so, to break the custom, by evicting the tenants unless they undertake to pay rack-rents; and if, whether from honourable feeling, or from an unwillingness to incur the odium of breaking through the custom of the estate, he do not choose to do it, the Court ought not to be made the medium of committing an injustice which the owner scruples or fears to commit. Judge Longfield, in his evidence before the Select Committee of the House of Commons in 1865, maintains that the Landed Estates Court ought to be empowered to give leases in such cases. He says, in reply to question No. 648, "Where a tenant showed that tenant-right, as it was "called, prevailed on the estate, that the good will was fre-"quently a matter of bargain and sale, with the knowledge of "the landlord, what we mean by Ulster Tenant Right, then I "think it reasonable that a stranger should not be put over "him, without putting him in as good a position as he was by "the custom of the country with his old landlord."

LXVI. No Tenant shall be deprived of any Right to Compen-Right to Compensation under this Act by any sation under a Sale or Declara-Sale, or Declaration of Title, in the Landed

Estates' Court, unless where the Conveyance or Declaration shall expressly negative the existence of such Right.

Leases not exceeding Thirtyone Years not to be evicted for non-Registration. LXVII. No Tenant shall be liable to be evicted from his Tenement by reason of the Non-registering or Non-Recording of any Lease made in pursuance of this Act when the Term created by such Lease does not exceed *Thirty-one Years*.

Distress for Rent abolished.

LXVIII. As respects all Tenancies created after the commencement of this Act, the Right of Distress for the Recovery of Rent shall be abolished.

The abolition of the right of distress appears to me so important, that I do not hesitate to express my conviction that no legislation respecting the land question will be effectual of which this does not form a part. The root of the difficulties which beset this question is the fierce competition for land—a competition which is almost unlimited; and the abolition of the right of distress is the surest, and perhaps the only means of moderating this competition. If rent were a simple contract debt, and the landlord on a par with other creditors, he would select his tenants as carefully as a merchant selects those to whom he gives credit; thus the competition would be limited to those who appeared worthy of trust on account of their personal character and their skill and capital.

This view is evidently making way. Judge Longfield's evidence before the Select Committee of the House of Commons in 1865 was strong and decided. The Government Bill of last session proposed to limit the right to those cases in which it should be founded on contract; but the Bill introduced into the House of Lords by Lord Clanricarde went farther, and prohibited a distress unless made in execution of the decree of a Court of law. The Report of the Commission on Hypothec in Scotland has already been quoted. A minority of that Commission would have abolished it altogether, and the majority recommended that the exercise of the right should be limited to three months after the day on which rent became due. Two of the Commissioners who dissented gave their reasons at considerable length. They asserted that it "confers an amount of preference in favour of landlords, not "only opposed to the established principles of commercial law "and the tendency of all recent legislation, but which is in "itself also manifestly unjust." \* That "the certainty "that landlords have of receiving, at least for a time, almost "any amount of rent that may be offered by any candidate "for a farm, places all offerers so much on a level, whether "they are possessed of capital or skill or not, that a strong

" and prevalent inducement is held out to proprietors to select "the highest offerer as tenant, without due regard to his suitableness in other respects." \* \* "That the law "is not required for the recovery of rents on well-managed "estates; and that, in those instances where it is called into "operation, it is alike detrimental to the tenants and their "ordinary creditors, and not less so to the best interests of "the land-owners themselves." Finally, they state their con-"viction that, due regard being had to existing leases, the "total abolition of the law is imperatively demanded both

" by justice and expediency."

Evidence to this effect might be multiplied indefinitely. The Scotch farmers [I quote from resolutions passed at a meeting of farmers and others held at Stonehaven in Kincardineshire] find it work the same evil that it has worked here,—" promoting a frequently intense and always unfair "competition"—"running up the hire of land to a fictitious " rate"—"quietly but gradually driving out the men of capital "to England or the colonies"—and they end by stating their " uncompromising hostility" to a law, which they characterise as "flagrantly unjust and oppressive in its operation, and "wholly unsuited to the modern and mercantile requirements " of the relationship between landlord and tenant."—See

Appendix to Report, page 153,

An Irish tenant-farmer, writing to me on this subject, says, "It is my decided opinion that the best bill which can possi-"bly be framed will be considerably marred in its practical " results, if the power of distress and priority of claim on the "part of the landlord be retained. Such a power enables "him to put on nearly what rent he wishes. It is a most " obnoxious and fearful engine for evil in the landlord's hands. "True, the privilege is not often used, that is, distraints are "not frequent. Few respectable landlords resort to the prac-"tice: they prefer getting up their land; but they retain "the power, and I know instances where other creditors of "the tenant are constantly held at bay by the landlord's " bailiff stepping in and making a formal or pretended seizure. "This is unfair towards the general community, degrading to "the tenants, and the fruit of one of the grossest pieces of "class legislation. The landlords are the only members of "the community who are privileged to pronounce judgment " and to issue execution in their own cause."

If the principle of mercantile contract is to have fair play, everything should, as far as possible, be removed which gives one party any superiority over the other, and thus interferes with the fair adjustment of the value of a farm between two parties standing on equal terms to make their bargain. It is evident that the priority of the landlord's claim over the claims of other creditors must pro tanto lessen the credit of the tenant, and, to this extent, interferes with his obtaining banking accommodation or credit. It may also be remarked that the right of distress has a strong tendency to induce the sub-letting of land. Except for this power, the tenant of a farm could not so readily obtain a profit-rent sufficient to induce him to place himself between the head landlord and the occupying tenants. It enables the middleman to raise the rent by the competition it induces, and to collect that rent, whenever the produce of the farm is sufficient to pay it and leave a bare subsistence for the occupier.

Goods taken in Execution. LXIX. In case the Goods and Chattels of any Tenant shall at any Time be seized in Execution by any Creditor of such Tenant, the Landlord shall not, in respect of any Claim for Rent, be entitled to Priority as against the Execution Creditor, but shall, to the extent of One Years Rent, on making proof that such Rent is due, be entitled to share rateably with such Execution Creditor the proceeds of the sale of the Goods and Chattels seized in Execution as aforesaid.

It would be right to amend the Bankruptcy Acts, so as to make them apply to farmers, as they do at present to market gardeners.

Arrears of Rent.

LXX. No Proceedings at Law or in Equity shall be maintained for the Recovery of any Arrears of Rent which may have accrued due more than Six Years before the Institution of such Proceedings.

Registration of

LXXI. No Proceedings at Law or in Equity shall be maintained for the Recovery of any Rent reserved under any Lease which for any purpose requires to be registered or recorded, unless and until the same shall have been registered or recorded, as the case may be.

The object of this clause is to throw the burden of registering a lease on the landlord instead of the tenant. The landlord, being the superior, may be presumed to be better acquainted with legal proceedings than the tenant. He is the stronger party, and on him, therefore, should rest the responsibility of seeing that everything requisite for giving validity to his own acts is properly done. Besides the object of enforcing the registration of the lease, is not the security of the tenant, but the security of those to whom the landlord may at any time propose to assign or to mortgage his interest.

LXXII. All Actions for Non-payment of Rent, Action for Non-payment of Rent commenced within Six Months after the same after Six Months Notice. shall have become due and payable, and all Actions of Ejectment for Recovery of the Premises on account of Non-payment of Rent, commenced within Six Months after a Year's Rent has become due, may be by Writ of Summons and Plaint in a Form and with Indorsements similar to those given in the Schedule to the Summary Procedure in Bills of Exchange Act, 1855, and upon such Writ, in case the Defendant shall not have obtained leave to appear and have appeared, the Plaintiff shall be entitled at once to sign final Judgment.

By these clauses the proceedings for recovery of rent, or for the recovery of the tenement in the event of the rent not being paid, will be assimilated to the proceedings for enforcing payment of a Bill of Exchange.

LXXIII. In any Action commenced for the Venue in Eject Recovery of any Lands or Tenements, the Venue may be laid in any County which the Plaintiff thinks proper, subject to the provisions which affect the laying of the Venue in any Personal Action in the Superior Courts of Common Law.

This, again, is an adaptation to questions respecting land, of the course of proceeding which prevails in other cases. If the mercantile principle of contract is to be fairly carried out, the legal remedies in the case of questions respecting land ought to be similar to those in commercial cases.

LXXIV. In any Action commenced by the Estates purautre Lessors or Reversioners, their Heirs or Assigns, for the Recovery of any Lands or Tenements which are held pur autre vie, if no sufficient **Proof** be made of the subsistence within *Three* Years before the Institution of such Action of the Life or Lives of the Person or Persons for whose Life or Lives the Lands or Tenements in question shall have been granted, the Presumption of the Continuance of life shall not be relied upon for a longer period than the said

Three Years, and the Plaintiff shall be entitled to a Verdict as if such Person or Persons were dead.

The object of this clause is to throw upon the tenant the necessity of proving the existence of the life or lives on which the continuance of his tenure may depend. The burden of proof ought certainly to rest with the tenant, who has in general the chief interest in the continuance of the lease. The persons whose names are inserted in any lease for lives are usually nominated by the tenant, and he is much more likely to be well informed respecting them than the landlord is.

Redemption of

LXXV. In case any Decree for Possession or Writ of Habere Facias Possessionem shall have been executed for Non-payment of Rent, no application on the part of any Person claiming to be restored to the Possession of the Premises recovered under such Decree or Writ, shall be entertained, unless the Rent payable in respect thereof be less by one-third than the annual Value at which the same are rated under the Laws for the Relief of the destitute Poor in Ireland.

The object of this clause is to limit the right of redemption to those cases in which the tenant possesses so valuable an interest, that it may be presumed the non-payment of rent has arisen from mistake or accident. Mr. McDonnell, in his "Report on the Impediments to express Contracts as to the Occupation of Land in Ireland," presented to the Statistical Society, thus refers to the injurious effects of this right:— "When, however, lands have been recovered for non-payment "of rent, and are actually in the landlord's possession, a tem-"porary impediment to his leasing it again still remains, "owing to the right of redemption which this act gives the "tenant, or any one interested in the premises, if he pay the "arrear of rent and costs of the ejectment within six months. "This right may be used at any time till the last moment of "that period has expired, and it is therefore necessary for the "landlord either not to let again while the right is pending, or "to make the letting subject to it. Improvement of any kind "is, of course, out of the question till the possibility of redemp-"tion is gone, and till then the landlord's enjoyment is practi-"cally suspended."

Buildings erected by Tenant shall belong to and may be disposed of by him. LXXVI. Subject to the Provisions hereinafter contained, every Building and Chattel Personal, erected on, or affixed to, the Freehold by

a Tenant at his sole expence, and which shall not have been so erected or affixed in pursuance of any obligation in that behalf, shall belong to, and may be removed or otherwise disposed of by the Tenant or his Executors or Administrators during the Tenancy, or within Six Calendar Months after the determination thereof; and during such period the Tenant, his Executors, Administrators, or Assigns may, at all reasonable times, enter upon the Premises for the purposes aforesaid: Provided always that the Landlord shall be entitled to reasonable Compensation for any unnecessary Damage occasioned to the Freehold by such entry or removal.

The object of this clause is to repeal completely the maxim that "whatever is once attached to the freehold becomes a part of the freehold," and to substitute instead thereof the more equitable rule that the ownership of all such erections or fixtures remains with the person at whose expense they have been erected. The maxim above referred to has been in part repealed by the 17th clause of the 23 & 24 Vic. chap. 154, and the present proposition is to make the repeal general. This arrangement will not meet all the cases in which tenants make improvements without a specific agreement with their landlords; but in the large number of cases in which buildings are erected, or walls, piers, etc. are built, it will secure for the tenant some compensation, as, if the buildings, etc., are really valuable, the landlord will no doubt agree upon a fair payment to the tenant, rather than have the valuable improvement destroyed. It may also be expected that the recognition of the tenant's right of property in everything that has been created by himself, and which can afterwards be detached without absolute damage to the land, will carry with it the recognition of his equitable claim to compensation for those improvements, which, from their nature, cannot be detached from the soil, and thus the repeal of the old feudal maxim, and the recognition of a more equitable rule of law, will have a wider effect than the mere legal right which it gives.

LXXVII. Subject to the Provisions herein- planted by Tenant after contained, all Timber Trees of Oak, may be cut and disposed of. Ash, Elm, Beech, Fir, Alder, or other Trees which, after the commencement of this Act may

be planted by any Tenant, and which shall not have been so planted in pursuance of any obligation in that behalf, shall belong to, and may be cut, sold, and disposed of by the Tenant, or his Executors or Administrators, during the Tenancy, or within Twelve Calendar Months after the determination thereof; and during such period, the Tenant, his Executors, Administrators, or Assigns, may, at all reasonable times, enter upon the premises for the purposes aforesaid: Provided always that the Landlord shall be entitled to reasonable Compensation for any unnecessary Damage occasioned by such entry.

It is well known that the Timber Acts have failed, in many cases, to carry out the intentions of the Legislature, and, consequently, have not afforded that encouragement to the planting of Timber Trees which was expected. By the provisions of this proposed Act the declaration of the tenant, made within twelve months after the planting, would, unless disputed at the time, be conclusive evidence of ownership, and even if disputed, the question would be then settled, so that there would not be any danger of a lawsuit arising at the termination of the tenancy.

Things affixed to the Freehold, and Trees planted, by the Tenant to be Registered with the Clerk of the Peace.

LXXVIII. Provided always and be it enacted that every Tenant claiming to be entitled to any Building or Chattel Personal erected or affixed by him to the Freehold, or to any Timber Trees planted by him as aforesaid, shall, within One Year after such erecting, affixing, or planting, as the case may be, lodge with the Clerk of the Peace a Declaration in the form to be specifled as hereinafter provided, and the Clerk of the Peace shall retain and record the same in manner hereinbefore provided with respect to Declarations relating to Improvements, and shall in like manner transmit to the Landlord a Notice of such Lodgment and a Copy of such Declaration: Provided always that nothing hereinafter contained shall in any manner limit or affect the right of any person to remove any trade or other fixtures, or any other thing which at present he may by law remove.

LXXIX. If the Landlord, so served with No- tice as aforesaid, shall not dispute such De-Notice of such Registration. claration, or institute and prosecute such Proceedings as are hereinafter provided for the impugning of the same, such Declaration shall be sufficient Evidence of the Ownership of the Tenant in the Buildings, Chattels Personal, or

Timber Trees specified therein.

LXXX. It shall be lawful for the Landlord the Landlord he dispute the within Three Calendar Months of such Notice such dispute beand Transmission, as aforesaid, to bring all mat- fore the Chairman. ters which he may dispute in relation to such Declaration before the Chairman, and the Chairman. without a Jury, shall hear and adjudicate upon all such Matters, and the Chairman's Adjudication thereon shall be final, and his Decree shall be conclusive Evidence of the Rights of Property therein declared, and a copy of such Decree, signed and certified by the Chairman, shall be lodged with the Clerk of the Peace, who shall retain the same and record it in manner hereinbefore provided, with respect to Decrees relating to Improvements.

This notice to the Clerk of the Peace is provided in order that the evidence of ownership may be recorded at the time, so that it shall not afterwards be liable to any doubt.

LXXXI. Every Limited Owner shall be at Limited Owner liberty to Contract with a Tenant entitled to Tenant's Rights remove such Buildings and Personal Chattels, Timber Trees. or to cut, sell, and dispose of such Timber Trees, as aforesaid, for the purchase of all the Tenant's rights therein; and every Limited Owner who shall pay such Tenant the price agreed on for the Purchase of such Rights shall, in respect of such payment, be entitled to all the privileges conferred by this Act upon a Limited Owner who has paid a Tenant Compensation for Improvements.

may purchase in Fixtures and

#### PART V.

## JURISDICTION.

Judges of Landed Estates Court to make General Orders. LXXXII. The Judges of the Landed Estates Court shall, from Time to Time, as to all matters within their Jurisdiction under this Act, make General Orders as to the Forms of Notices and other Documents, and as to the Payment of Fees, and as to the Conduct of Proceedings, and as to the Costs payable in respect of such Proceedings, and as to the Taxation of such Costs: Provided always that such General Orders shall not be of any validity until they have been sanctioned by the Lord Chancellor of *Ireland*.

Costs and Expen-

LXXXIII. In every Proceeding which may come before it under this Act, the Court shall have full power and discretion as to the giving or withholding of Costs and Expenses, and as to the Persons by whom, and the Funds out of which, the same shall in the first instance or ultimately be paid, repaid, and borne, and may apportion the same among such Parties as it shall see fit.

Equitable Juris-

LXXXIV. In relation to all matters within its Jurisdiction under this Act, the Landed Estates Court shall have all the Powers, Authority, and Jurisdiction of a Court of Equity.

Appeal.

LXXXV. Every Order or Decision of the Judge made under this Act shall be subject to direct Appeal to the Court of Appeal in Chancery in Ireland, and to no other, and such Appeal shall be subject to the Regulations to which other Appeals from the Orders and Decisions of the Judge are subject.

Chairman of Quarter Sessions to make General Rules. LXXXVI. The Chairmen of the Quarter Sessions of the several Counties in *Ireland*, or any Fifteen of them, shall from Time to

Time, as to all Matters within their Jurisdiction under this Act, prepare Forms of Notices and other Documents, and fix a Scale of Fees to be taken by Clerks of the Peace in respect of Business done by them under this Act, and make Regulations as to the Payment of such Fees, and as to the Conduct of Proceedings under this Act before such Chairmen, and as to the Costs payable in respect of such Proceedings. and as to the Taxation of such Costs: Provided always that such Forms, Scales, and Regulations shall not be of any validity until they shall have been sanctioned by the Chief Justice of the Queen's Bench in Ireland, the Chief Justice of the Common Pleas in Ireland, the Chief Baron of the Exchequer in Ireland, or by Two of the said Judges.

LXXXVII. The Commissioners of Public Commissioners of Public Works to Works in Ireland shall, from time to time, as to fix the Remuneration of Valuaall matters within the powers and authorities tors. conferred on Valuators appointed by the said Commissioners in pursuance of this Act, prepare Forms of Notices and other Documents, and fix a Scale of Fees to be taken by such Valuators, in respect of any business done by them under this Act: Provided always that such Forms and Scale of Fees shall not be of any validity until sanctioned by the Lord Lieutenant in Council.

LXXXVIII. In every Proceeding had by an Valuator to have Arbitrator or Valuator under this Act, such ArExpenses. bitrator or Valuator shall have full power to deal with the Costs and Expences incident to such Arbitration and Valuation, and to award the Payment thereof by such Party, and in such manner as shall appear just; and the Award of such Costs or Expences shall form part of his Valuation or Award as the case may be, and shall be specified therein accordingly.

LXXXIX. It shall be the duty of the Clerk Notices, etc., if recorded, not to of the Peace to see that all Notices, Declara- be afterwards

tions, and other Documents, lodged with him under this Act, shall be in the proper form, but no Notice, Declaration, or other Document, once recorded by the Clerk of the Peace under this Act, shall afterwards be objected to on the ground of informality alone.

Service of Notices.

XC. Any Notice or other Document required by this Act to be served upon any Person may be served on such Person by leaving the same at his usual or last known Place of Abode, or if the Court or Valuator should think proper, by sending it through the Post in a prepaid registered Letter addressed to such Person at his usual or last known Place of Abode.

Notices by Post.

XCI. Any Document served by Post as aforesaid shall be posted in such Time as to admit of its being delivered in the due Course of Delivery within the Period (if any) prescribed for the Service thereof, and in proving Service of such Document it shall be sufficient to prove that such Document was properly directed, and that it was put as a prepaid registered Letter into the Post Office.

Repealing Clause.

XCII. From and after the commencement of this Act, "The Act to amend the Laws for "the Encouragement of Planting Timber Trees," passed in the Parliament holden in the 23rd and 24th years of George III. and "The Landed Property (Ireland) Improvement Act, 1860," are hereby repealed: Provided always that no Act done or Proceeding taken under the said Acts previous to the commencement of this Act, shall be in any Manner invalidated by such Repeal, but for the Purpose of every such Act or Proceeding the said Acts shall still remain in Force.

Commencement of Act.

XCIII. This Act shall come into operation on the 1st day of January, 1868.





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